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# Situation of human rights in Rwanda

## Note by the Secretary-General

In accordance with Commission on Human Rights resolution S-3/1 of 25 May 1994, endorsed by the Economic and Social Council in its decision 1994/223 of 6 June 1994, the Secretary-General has the honour to transmit to the members of the General Assembly and the Security Council the three reports which the Special Rapporteur on the situation of human rights in Rwanda, Mr. René Degni-Ségui, has prepared since the forty-ninth session of the General Assembly.

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ANNEX I

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Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Ségui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of resolution S-3/1 of 25 May 1994*

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* Previously issued under the symbol E/CN.4/1995/70 of 11 November 1994.

## INTRODUCTION

1. In accordance with the mandate entrusted to him by the Commission on Human Rights in resolution S-3/1 of 25 May 1994, the Special Rapporteur made a third visit to Rwanda from 14 to 25 October 1994. The purpose of this visit was to update, supplement and clarify the information contained in the first two reports published on 20 June 1994 (E/CN.4/1995/7 and Corr.1) and on 12 August 1994 (E/CN.4/1995/12) respectively.

2. In the course of his visit, the Special Rapporteur:

(a) Travelled to Kigali, Kibungo, Butaré, Gisenyi and Cyangugu (Rwanda); to Goma and Bukavu (Zaire); to Benaco (United Republic of Tanzania); to Brussels and to Paris;

(b) Visited the refugee camps at Goma, Bukavu and Benaco, the camp for displaced persons at Kibeho in the former Turquoise zone, the Nyarubuye parish, the Bishopric, parish and small seminary of Nyundo, the Gisenyi cemetery, Chamvumo village and Kigali prison;

(c) Held talks with:

(i) The following political personalities of Rwanda:

Mr. Paul Kagamé, Vice-President of the Republic and Minister of Defence, Mr. Faustin Twagiramungu, Prime Minister, Mr. Seth Sendashonga, Minister of the Interior and Mr. Alphonse-Marie Nkubito, Garde des Sceaux, Minister of Justice;

(ii) High-placed officials of bodies comprising the United Nations system, namely, Mr. Shahryar Khan, Special Representative of the Secretary-General in Rwanda, Major-General Claude Toussignant, Force Commander of the United Nations Assistance Mission to Rwanda (UNAMIR), and representatives of the United Nations High Commissioner for Refugees (UNHCR), of the United Nations Development Programme (UNDP) and of the United Nations Rwanda Emergency Office (UNREO);

(iii) Foreign personages: Mr. Vandenbroecke, Minister of Foreign Affairs of Belgium; the Apostolic Nuncio; the Ambassador of the United States in Kigali; the Conseil permanent de la Francophonie, a branch of the Cultural and Technical Cooperation Agency, Mr. Jean Gol, the Swiss Chargé d'affaires in Rwanda, Professor Filip Reyntjens, former Belgian Minister of State of Antwerp University (Belgium) and Mr. Eric Gillet and Mr. Bavo Cool, Belgian lawyers;

(iv) Representatives of non-governmental organizations, as well as Rwandese and foreign journalists (press conference).

3. The Special Rapporteur wishes to express his sincere thanks to all of the above and in particular his gratitude to the Special Representative of the Secretary-General and the Commander of UNAMIR who provided him with all necessary assistance and facilitated his visit through their logistical support. Thanks also go to Mr. William Clarance, Chief of the Human Rights Field Operation in Rwanda and his team of human rights observers who, internal contradictions and difficulties notwithstanding, displayed a spirit of devotion and dynamism.

4. This on-the-spot visit enabled the Special Rapporteur once again to take stock of the situation prevailing in Rwanda. The conclusion he reached was that the three basic concerns of this country are the problems of genocide, insecurity and the return of refugees and displaced persons.

## I. GENOCIDE

5. The inhabitants of Rwandese towns are returning gradually and quite rapidly. Economic activity is also resuming. The dead are being mourned but there is rejoicing whenever a lost relative, a brother, a sister or a child is found. It would appear that the major concern of the Rwandese is knowing whether those responsible for the genocide - "génocidaires" as they are called in the country - will be tried and punished. They wonder what is keeping the United Nations from establishing an international tribunal, and in this context tongues become loosened. But although the existence of genocide has been confirmed, there is considerable delay in conducting the investigation.

### A. Confirmation of the facts

6. The various elements constituting genocide appear to be increasingly confirmed by the on-the-spot investigation that has been carried out. Such elements include the discovery of mass graves, the existence of evidence and proof indicating that the massacre of the Tutsi was planned and the identification of those primarily responsible.

#### 1. The discovery of mass graves

7. Several mass graves have been found throughout the country as a result of the various investigations carried out - there being one or two in each commune. A provisional list of about 50 mass graves has thus been drawn up, with more than 6 in towns such as Gitarama and Cyangungu. The Special Rapporteur and several members of the observer team were personally able to identify several mass graves, namely, at Chamvuzo, Nyundo, in the Gisenyi communal cemetery and in Cyangungu. At Nyundo, three septic tanks were later used to inter those massacred, who numbered over 300. The inhabitants of Nyarubuye and the surrounding area were not, however, entitled to burial. The bodies of some lie strewn about the courtyard and alleys of the parish and others are piled one upon the other in the classrooms of the parish school and in the church, while yet others were discovered in the neighbouring village, some having had their hands bound behind their backs before being executed. Skeletons of persons of all ages abound: women, men, old persons and even babies. The senses - sight, smell and touch - are all revolted by the spectacle.

2. Proof or evidence indicating that the genocide of the Tutsi was planned

8. Since the question of genocide was discussed at sufficient length in the preliminary report it will not be dealt with in detail below. Attention is simply drawn to the following:

(a) The existence of several audio cassettes of broadcasts by Radio Rwanda and Radio Television des Mille Collines which are available and will be placed at the disposal of the courts and tribunals as proof of incitement to the extermination of the Tutsi;

(b) The issue by the authorities of unequivocal orders for the massacre of the Tutsi.

9. Concordant and reliable testimony indicate that these orders, carried out by the interahamwe ("those who attack together") and the inhabitants themselves can be traced back to the Government via local political and administrative authorities. A militiaman from Kibungo explained to a priest who tried to persuade him not to take part in the massacres that he liked his job as a taxi (moto) driver and did not want to be soldier. But, he added, "If I am told to kill, I kill the enemies of the people; they are bad". Another person, a Catholic from Kabgayi parish who was about to kill people in a church and who was asked by the priest what had happened to his "Christian way of life", replied: "You're not with it, Father. We're carrying out a plan". And in reply to the question what he would get out of the plan, he said without beating about the bush: "Salvation". The Prefect of Cyangungu, who was unable to provide protection for the Tutsi and who was asked by the Bishop of the Diocese to open up the frontiers, said that he could not allow the Tutsis to flee towards the frontier with Zaire since he had received "orders from above". The lieutenant who directed the attack against the Bishopric of Kibungo on 15 April 1994, following the massacre of over 1,200 Tutsi by militiamen and soldiers, reassured the Bishop and a few priests whom he had spared that "It's finished. We've sent a message to Kigali saying that the operation was a success". In other words, he had informed Kigali that everyone had been exterminated at Kibungo.

10. By far the most topical example is offered by the speech of Mr. Sindikubwabo, the President of the Interim Republic of Rwanda, on the occasion of the installation of the Prefect of Butaré on 19 April 1994. In this speech, which has been confirmed by a number of reliable sources, he addressed an appeal to the inhabitants of Butaré, stating that they should not act as they had in the past - a past characterized by apathy - and urged them to engage in a manhunt. "You, people of Butaré, you are adopting a 'its none of your business attitude'; the enemies are among you, get rid of them", he is said to have declared in kinyarwanda. And later on he added: "If you cultivate a field and then fail to weed it, what you have done is pointless". He is said to have concluded with "Analyse each one of my words and you will discover the meaning of the message I am conveying to you".

### 3. Identification and prosecution of persons primarily responsible for the genocide

11. Although the identification and even the prosecution of those responsible for carrying out such orders raise difficulties owing to the number involved, this is not true of those who issued the orders, namely, those primarily responsible against whom "sufficient charges" have been brought. Abundant and concordant testimony is available on the part they played, and each witness possesses a list which sometimes classifies the perpetration of genocide in hierarchical order. Proof is also available. On the other hand the prosecution of those primarily responsible raises a problem namely, that of the tribunals before which they should be brought, and in particular the international tribunal. The victims, the wounded and those entitled to compensation, are becoming impatient. Apart from the actual establishment of the international tribunal, divergencies of views might well emerge between the United Nations and the Rwandese Government concerning its seat, the detention of the accused or those sentenced and the penalties imposed.

12. The Rwandese Government would like the tribunal to sit in the place where the massacres were perpetrated, namely, at Kigali in Rwanda. Will the United Nations accede to its wishes?

13. The same problem arises in connection with the place of detention which, in the case of those who carried out the orders, would probably be Rwanda and, in the case of those who issued the orders, outside the national territory. The Rwandese Government is questioning the justification of this kind of "double standard" discrimination.

14. Lastly, with respect to punishment, the Rwandese Government, under pressure from national public opinion, is in favour of the strict application of the Rwandese Criminal Code which provides for capital punishment, whereas the United Nations, following the example of the Statute of the International Tribunal for the former Yugoslavia (S/25704) adopted by the Security Council in resolution 827 (1993) of 25 May 1993 and in accordance with the Statute of the International Tribunal for Rwanda (S/1994/1168), contained in Council resolution 955 (1994) of 8 November prescribes life imprisonment as the maximum sentence. In this context and apart from the discrimination made between the two categories of persons, the paradox of punishing those who carried out the orders more severely than those who issued them is to be deplored. Nor is it out of the question, that, as a result of certain events, those who issued the orders might be released a few years later. It is no doubt because these various divergencies of views and contradictions have not been reconciled that the Rwandese Government has proposed to the Security Council, as reported in Le Monde of Tuesday, 1 November 1994, that international jurisdiction should be replaced by a national tribunal "enjoying international assistance and the death penalty instead of life imprisonment ...".

### B. Delay in carrying out the investigation

15. The investigation, which should be conducted on the spot by human rights observers in accordance with paragraph 21 of Commission on Human Rights resolution S-3/1 of 25 May 1994, has not yet really begun. This is clear if a

distinction is made between two different periods. The first is characterized by the absence of observers and the second by the presence of undeployed observers.

### 1. Absence of observers in the field

16. The Special Rapporteur's first two visits, which took place from 9 to 20 June 1994 and from 29 to 31 July 1994 respectively, do not call for any particular comment, since at that time the investigation proper had not yet begun. The first two reports were prepared on the basis of documents and testimony provided by officials of intergovernmental and non-governmental organizations, as well as a few survivors of the massacres. Moreover, the Special Rapporteur refrained from questioning displaced persons or refugees in the camps for fear that reprisals would be taken against them. This period was that of the war and the cease-fire. It lasted for two months (June and July 1994) and observers had not yet been deployed, mainly because the war was still raging. It was at the end of the armed conflict that the deployment of observers was envisaged.

### 2. The presence of undeployed observers

17. Following his second visit, the Special Rapporteur proposed, in accordance with a strategy described in the second report, the deployment of 150 to 200 observers for the period of national reconstruction. The United Nations decided upon 147, a figure agreed with the Government and corresponding to the number of communes in the country.

18. On Saturday, 22 October 1994, 37 of the 147 agreed upon had taken up their duties at Kigali. The fact that the observers - the first four - began arriving at Kigali at the beginning of August 1994 gives an indication of the difficulties encountered in organizing this mission. On the same date, the observers present had not yet been deployed in the field.

19. It should, however, be mentioned that spot investigations have been conducted by human rights observers as well as by the specialized investigation team, although the general deployment plan will be embarked upon only on 22 October.

20. The reason usually given is the absence of material and logistical facilities, namely, the lack of liaison vehicles and particularly communication radios that are vital for the security of the observers. Moreover, according to the United Nations Centre for Human Rights, "only provisional instructions have been received in respect of the field operation during the initial phase, based on similar directives applied during United Nations operations in the former Yugoslavia, El Salvador and Haiti". And it will only be after the arrival of the chief of the operation at Kigali on 10 September 1994 and when the head of the specialized investigation team assumes his functions that "complete instructions for field personnel, based strictly on the experience acquired during the first few weeks of the operation" will be drawn up. However, to these reasons must be added others reflecting personality clashes and the vagueness of the instructions provided.

21. These various reasons may well explain why two observers have resigned and, in part, the failure of two other observers to renew their contracts. There is nothing to say that yet other observers may resign, although the Special Rapporteur, during his third visit, tried to persuade them not to do so. The delay in the deployment of observers is all the more unfortunate in view of the insecurity that is becoming increasingly apparent in Rwanda.

## II. INSECURITY

22. Insecurity, which has already been condemned in the second report, is again on the increase. As a consequence of the armed conflict and particularly the massacres that have taken place, it is a source of human rights violations taking the form of serious violations of property rights, the right to personal safety and the right to life.

### A. Violations of property rights

23. Violations of property rights consist in the illegal occupation of property - a problem to which the Government is trying in vain to find a solution.

#### 1. Illegal occupation of property

24. On returning to Rwanda, many refugees illegally occupy houses - dwelling houses or business premises - as well as land abandoned by its owners or tenants who have fled. The situation is particularly complex in that this return flow is of an anarchical nature and that the majority of these refugees constituted the Diaspora of the 1960s. According to well-informed sources, it appears that over half of the property of the Hutu is occupied by the new repatriates. This is the case in Kigali as well as in Rusumo commune. The most telling example is offered by the Massaka sector in the vicinity of Kigali, where 4,000 of the 5,000 inhabitants, namely, 80 per cent of the total population, are new arrivals.

25. The new arrivals settle in without thinking that the owners might return, so that when they do and claim their property rights, conflicts arise and in many cases assume unexpected proportions. Since they belong to the Hutu ethnic group, they are reported to the military as having participated in the genocide or in cruel and inhuman treatment or summary executions. The Government has informed the Special Rapporteur that it is concerned by this delicate problem and the Prime Minister, who has pointed out that it is difficult to evict and rehouse the refugees, recognizes that conflicts "are being resolved in an increasingly violent manner".

#### 2. Solutions to the problem

26. The Government of Rwanda has taken the following steps to solve the sensitive problem of the illegal occupation of the property of persons who fled by persons who have returned, which is primarily the result of the shortage of dwellings and the large-scale and spontaneous return of refugees:

(a) Only refugees who have been out of the country for less than 10 years may recover their right of ownership; they are the real owners of the property they abandoned during the armed conflict and the massacres; it is stressed that this principle is in keeping with the Arusha Agreements;

(b) Refugees who have been outside the country for more than 10 years may temporarily occupy abandoned and vacant houses, on the understanding that such occupation does not create any right of ownership; they are in a precarious and revocable situation;

(c) The property of persons responsible for the genocide will be seized and sold to establish a fund for the compensation of the victims;

(d) An Inter-Ministerial Committee presided over by the Minister of the Interior has been set up to implement these measures.

27. The Minister of the Interior recognizes that this Committee faces resistance by many persons served with eviction notices. This resistance is all the stronger in that, in some cases, it is put up by officers of the Rwandese Patriotic Army (APR). It explains why, according to the Minister, the Committee can be successful in only 30 per cent of cases. He therefore intends to use a gendarmerie unit to have "the notices served by force whenever the occupants have shown obvious signs of bad faith".

28. The measures adopted are still not enough because they simply shift problems instead of solving them. The eviction of illegal occupants whether they like it or not is tantamount to inviting them to take over other unoccupied houses, shops or plantations, where they can expect the same sequence of events to take place. In order to put an end to this awkward and uncertain situation, the Special Rapporteur proposed that a national policy to take care of former refugees should be adopted and implemented on the basis of the Arusha Agreements and under the auspices of the Government of Rwanda, the Office of the United Nations High Commissioner for Refugees and the Organization of African Unity. The formulation of a plan of this nature requires the international community's support within the shortest possible time in order to put an end to other violations of human rights.

## B. Violations of personal safety

29. The arbitrary arrests and detentions committed in Rwandese territory are justified by the shortage of resources.

### 1. Arbitrary arrests and detentions

30. Insecurity is also reflected in violations of personal safety which primarily take the form of arbitrary arrests and detentions. The Special Rapporteur has been informed of several cases of searches and particularly of arbitrary arrests and detentions. He was able to confirm this information for himself when he visited Kigali prison, where he met several thousand prisoners, including men, women, children and elderly people. He counted about 40 children under 15 years of age, including several as young as 12.

31. These persons had been arrested and detained in violation of basic procedural rules. No arrest warrant is issued and the persons concerned are kept in places of detention, especially in police stations, for longer than the lawful period of police custody, which is 48 hours, renewable once. What is worse, persons released by the judicial authorities for lack of evidence are arrested again by soldiers and detained in police stations or barracks.

32. Conditions of detention are extremely rudimentary. Prisoners are piled in practically on top of one another. The hunt for the "génocidaires" has filled Rwanda's prisons. On 18 October 1994, ICRC counted over 7,000, including 800 in Gitarama, 2,000 in Butaré and 4,200 in Kigali. The result is overcrowding. For example, Kigali prison, which has room for 1,500 prisoners, had 4,305 on Friday, 21 October 1994. The situation is likely to get even worse because large numbers of persons are being admitted to prison, whereas few, if any, are leaving. In Kigali, an average of between 50 and 100 persons are admitted every day. The prison also does not have enough beds and many inmates therefore have to sleep on the floor. There is no open-air area. Prisoners have only one skimpy meal a day consisting of no more than maize and beans.

### 2. The lack of resources

33. The Government of Rwanda gives more or less connected reasons both to justify the arrests and detentions and to explain the irregularities that characterize them. There are three such reasons.

34. The first is the need to prosecute the persons responsible for the genocide so that they do not escape justice. We are told that the Government and the urban population are firmly determined to prosecute the perpetrators. The Government wants to punish those responsible for the massacres at any price and does not wish in any way to countenance impunity, which is a recurrent cause of the successive waves of massacres in Rwanda. This is why it informed the Special Rapporteur on several occasions that the "génocidaires" are being arrested pending the establishment of the international tribunal and the reorganization of Rwandese judicial machinery. Moreover, the urban population is putting strong pressure on the authorities to make sure that the crimes against humanity that have been committed will not go unpunished because otherwise they would have to take revenge themselves.

35. The second reason is the need to protect the persons concerned against reprisals by the victims. Prisons and other places of detention are, we are told, safe places for protecting the lives of persons who have been reported to be responsible for the massacres, but who do not seem to have been informed that this is the purpose of their detention and obviously do not have any choice in the matter.

36. The third reason is the lack of administrative structures and judicial personnel. The Government says that it is aware of violations of the right to personal safety and complains of the acute shortage of the basic elements needed to ensure the smooth operation of the criminal investigation police and the law. For example, it stresses that only 27 of the more than 150 persons employed by the Ministry of Justice are at their posts, after having escaped

death or exile. It also points out that the lack of training of military personnel and their ignorance of legal procedures are causes of human rights violations. These reasons also explain violations of the right to life.

## C. Violations of the right to life

37. Violations of the right to life are the result of summary executions, which are said to be justified by revenge taken by the victims.

### 1. Summary executions

38. The Special Rapporteur has been informed of several cases of summary executions and even massacres and involuntary disappearances of persons for which civilians and, in particular, APR soldiers are alleged to be responsible. This information was supplied to him both by the relatives of victims and by humanitarian non-governmental organizations. They refer not only to thousands of anonymous deaths, but also to lists of persons who are few in number, but mentioned by name.

39. The Special Rapporteur personally went to Chamvuzo (Butaré prefecture) to identify a mass grave containing almost 50 bodies for which APR is alleged to be responsible. Many rumours bordering on disinformation are, of course, circulating in the refugee camps, to the effect that thousands of Hutu have been massacred. APR soldiers and civilians are indeed guilty of massacres of Hutu in various places in Rwanda. Investigations are being conducted.

40. Persons suspected of having taken part in the massacres have been executed either by the civilian population itself, by soldiers at the civilian population's request or on their own initiative. Concordant and reliable testimony describes nearly the same scenario. Men, children and elderly people have been accused of being traitors and massacred following so-called information meetings convened by APR elements. Massacres have allegedly taken place in various parts of the country, and particularly in the south. In addition to the mass graves for which APR is responsible we therefore have all those for which the militia and the Rwandese Armed Forces are responsible, so that it is now difficult to tell them apart. Investigations are under way to clarify the situation and determine where responsibility lies.

### 2. Private revenge

41. The Government presents reasons and describes the measures it has taken in explanation of recently reported massacres and thus relieves itself of responsibility. Two reasons are given.

42. The main reason is private revenge taken by Tutsi civilians and by soldiers. We are told that, in Rwanda, all those who live on the same hill know one another and, in many cases, the executioners operated openly and killed people in full view of everyone because they were convinced that they enjoyed impunity, which has become a tradition. Similarly, soldiers who had joined the ranks of the Rwandese Patriotic Front (RPF) saw their relatives executed simply because they had joined up. And they, in turn, carry out acts of reprisal.

43. The second, subsidiary, reason is that, in the second phase of the war, the RPF hastily recruited juvenile delinquents and even former militiamen on what was not a very selective basis. It is a great temptation for these young persons who have tasted victory and who are not receiving any pay to seize other people's property, killing them if necessary. Officers also abuse their powers by unlawfully occupying houses at gunpoint. The question is thus whether the RPF really controls all its APR elements.

44. In view of this situation, the Government has adopted a number of measures, including:

(a) The establishment of a military police force commanded by a colonel who is responsible for supervising and arresting delinquent military personnel;

(b) The quartering of undisciplined soldiers in a training camp;

(c) The adoption of a decree embodying the Code of Military Justice, which provides for the establishment of two competent courts to try military personnel: the Court Martial and the Military Court. The latter's decision may be appealed under the conditions provided for by Rwandese law. The Government of Rwanda has already arrested military personnel, including officers (majors and lieutenants). A fax sent to the Special Rapporteur by the Minister of Justice refers to 100 members of the military who have been arrested, and lists 20 cases in which "the investigation has been completed".

45. It may be added that the United Nations is helping the Government of Rwanda to organize a new national police force intended to guarantee security in the country. In a favourable response to an urgent request by the Government of Rwanda, UNAMIR has started a training programme for 103 police cadets who were chosen by the Government and who will be trained in normal police work and investigation procedures. There is a programme developed by the Secretary-General in his progress report of 6 October 1994 on the United Nations Assistance Mission for Rwanda (S/1994/1133).

46. It is obvious that these measures are not enough in themselves to establish security in Rwanda. They will therefore have to be expanded to provide comprehensive assistance covering both national reconstruction and legal assistance lato sensu. These measures, taken together, may also help to promote the return of refugees.

## III. THE RETURN OF REFUGEES AND DISPLACED PERSONS

47. The return of refugees and displaced persons to Rwanda and the hills where they live continues to be the international community's main concern. Their return, which has been slowed down by considerable pressure on the part of the former authorities, nevertheless seems to imply new solutions.

### A. The slow-down in the number of returns

48. The refugees' situation has persisted too long. What was temporary is becoming permanent despite difficult living conditions, which have improved only slightly (mainly in terms of health and nutrition).

49. Although the international community has been making untiring efforts to ensure the repatriation of refugees and displaced persons, the situation has hardly changed. In October 1994, UNHCR estimated that there were about 1.5 million Rwandese refugees in neighbouring countries, including 850,000 in North Kivu, 300,000 in South Kivu (Zaire) and 460,000 in the United Republic of Tanzania. It should be mentioned that at least 50,000 refugees have died of diseases and particularly the cholera epidemic that spread throughout the camps. In addition, the same number of persons was displaced inside Rwanda. The Kibeho and N'Dago camps for displaced persons had a population of 60,000 and 40,000 respectively.

50. These numbers are levelling off as a result of the slow-down in repatriations, in contrast to the large-scale repatriations that took place immediately after the cease-fire entered into force. For example, in the Prefecture of Giseny in UNAMIR sector No. 5, there were 3,368 returnees from Zaire on 27 July 1994. On 28 July, 4,233 persons returned by the same border posts. On 29 July, however, there was a sharp drop in the number of repatriations, to 1,592; and on 18 August it fell to 922 and then to 268 on 6 October. So that whereas the number of repatriations in the sector amounted to 12,433 for the last five days of July (an average of 2,486 a day), it dropped to 36,600 (an average of 1,180 a day) in August, to 32,925 (an average of 1,097 a day) in September and to 10,337 (a daily average of 607) in the first half of October. This decline in the number of returning refugees became noticeable and significant on 17 September and even sharper in October.

51. There are two factors pulling in opposite directions. The first is that most of the refugees who returned to Rwanda during the same period comprised the old Tutsi Diaspora and are probably not taken into account in the refugee figures. The second is that the figures do not include arrivals by dugouts or other clandestine means.

52. Moreover, there have also been far fewer arrivals than departures. UNHCR reports that, from 8 to 14 September 1994 in the Goma area, there were 15,662 returnees and no new arrivals in the camps; from 15 to 21 September, 11,728 returnees as against 1,868 arrivals; from 22 to 30 September, 6,477 returnees as against 1,868 arrivals; and from 1 to 17 October, 12,106 returnees and 1,731 arrivals. In general, there has been if not a halt at least a gradual slow-down in departures from the camps, largely attributable to action by the former leaders.

### B. Taking refugees hostage

53. The slow-down in repatriations of refugees and displaced persons may be due to various reasons. The first, which is immediately apparent, is the insecurity prevailing in Rwanda and, in particular, the fear of reprisals by the Tutsi. The second, which is closely related, is the fear of those who took part in the massacres of being executed by the RPF Government. Yet other reasons include the reassuring presence of United Nations observers and soldiers and the improvement in nutritional and health conditions.

54. However, the decisive - or at least most important - reason is that the refugees and displaced persons are being held hostage by the former political authorities, if the strong pressure being exerted on them "in an appropriate framework" is anything to go by.

1. Strong pressure

55. The former leaders, with assistance from local officials and military personnel and militiamen, continue to wage a vigorous campaign against the return of refugees and displaced persons to Rwanda and their hills. These authorities have no qualms about going from camp to camp making political speeches conveying two messages: disinformation and threats.

56. The first message tells refugees and displaced persons to remain in the camps rather than return to Rwanda for fear of being massacred by the Tutsi and the FPR Government. Then there are also reports of thousands of Hutu being massacred by the latter, and many people are prepared to testify to the fact. This disinformation campaign is so forceful that it is no longer possible to establish the truth, particularly bearing in mind the climate of insecurity that does indeed prevail in Rwanda.

57. The second message is in the nature of a permanent threat to refugees or displaced persons who expressly or tacitly indicate a desire to be repatriated. It is clear from this campaign that return will be possible only as a result of political negotiations entailing a general amnesty or, otherwise, a resumption of civil war to reconquer power. Those who do not take the advice offered and return would be at risk of being the first targets in the event of a reconquest of power.

58. These campaigns are organized thanks to the freedom of action enjoyed by members of the former Government team to engage in political activities contrary to international norms on Zairian territory. On 18 October 1994, for example, Mr. Jean Kambanda, ex-Prime Minister of the former Rwandese Government, visited refugees at the Mugunga (Goma) camp. He talked for more than an hour and a half with representatives of the refugees and then with the refugees themselves, who turned out in large numbers to listen to him. In substance, the message he conveyed was that the Rwandese Government in exile would shortly be starting discussions with the Government of Kigali. If that Government refused or stood in the way of a prompt solution, military action would be taken. Echoing the "Prime Minister", General Bizimungu stated on Saturday, 22 October 1994, that, if there were no negotiations between the new and the former Governments with a view to power-sharing, his troops would attack Rwanda. Unfortunately, those were no vain threats, since the former Government still has the means to pursue its policy.

2. An appropriate framework

59. The former Government team has been able to devise and set up in the various refugee camps a framework that is ideally suited for maintaining its pressure on the refugees and displaced persons. This framework is both institutional, political and administrative.

60. The institutional framework involves reconstituting in the camps the political and administrative structures that exist in Rwanda. These structures are mainly prefectures and communes. In other camps, there are even sectors. For instance, in the Kibumba camp at Goma, 8 of the 10 Rwandese prefectures are represented, together with several communes and a few sectors. Sometimes these reconstituted local units are even headed by the same local

authorities, prefects or prefecture chiefs and burgomasters. Thus, at Benaco in the United Republic of Tanzania, the Prefect of Kibungo has reportedly resumed his functions at the head of the prefecture.

61. These reconstituted prefectures, sectors and communes are undoubtedly structures enabling the former Rwandese authorities to control the civilian population. This control is all the more effective in that, in several camps, it is in practice they who are responsible for conducting a census of refugees.

62. The system of control thus devised and put into effect confers substantial or political and administrative powers on the former Government team through the intermediary of prefects or heads of prefectures, burgomasters and militiamen, particularly the power over food and the power to punish.

63. The power over food is tacitly recognized to belong to these local authorities when aid organizations relinquish to them the responsibility of ensuring the distribution of foodstuffs and other relief supplies. These authorities do not hesitate to use and abuse the power over food, as thus recognized, to punish those who do not go along with their policy and to divert stocks of food which are sold on the markets of the host countries.

64. The second power, which they quickly and forcibly acquired, is that of executing all those who do not fall in with their policy of keeping people in the camps. However, capital punishment is not confined to the political sphere but is also applied in connection with mere domestic matters, or indeed acts of vandalism. There is permanent insecurity in the camps. Not a day passes without a refugee being killed. The militiamen and armed bandits impose their own law, the law of arms. There are even persistent rumours of soldiers and militiamen being trained to attack the Rwandese State and to regain power there. The growing insecurity in the camps is the reason why the staff of UNHCR and humanitarian organizations no longer sleep there and why some of them threaten to withdraw. This necessitates the adoption of further measures to ensure security in the camps.

### C. New solutions

65. To cope with the situation in the camps for Rwandese refugees and displaced persons, the United Nations and its various partners have envisaged new solutions to supplement those which already exist. Among them, the two main solutions that should be adopted are the separation of refugees from politicians and their repatriation.

#### 1. The separation of refugees from politicians

66. The policy of separating refugees or displaced persons from politicians is advocated by the United Nations Secretary-General in his report of 6 October 1994 (S/1994/1133). The final report of the United Nations Technical Mission on the state of security in the camps gives details of this operation. To sum up, two main points may be mentioned:

(a) The distinctions made in the Secretary-General's report between Rwandese refugees, particularly in Zaire:

(i) The former leaders, comprising some 50 families lodged in villas at Bukavu;

(ii) An estimated 16,000 military elements of the former RGF who, together with their families, form a group of 80,000 persons;

(iii) The militiamen, who are difficult to enumerate, since they have mingled with ordinary refugees; and

(iv) The ordinary refugees, estimated at more than 1 million.

(b) The aim of the operation is to separate the vast majority of refugees from those who yesterday masterminded or participated in the massacres and today are taking the Hutu survivors hostage. The latter fall into the first three categories. It is nevertheless difficult to identify the third category - the militiamen - in order to separate them from the general population. This operation will be conducted through the formation of an international isolation or interposition force estimated at some 2,000 to 3,000 policemen, the imminent establishment of which has been announced by the Secretary-General. However, this force will doubtless have to begin by exploring peaceful solutions and encouraging repatriation, force being used only in cases of extreme emergency.

2. Repatriation

67. Voluntary repatriation of refugees is covered by the relevant provisions of various United Nations conventions and the Protocol of Agreement concluded at Arusha on 9 June 1993 between the Government of the Rwandese Republic and the Rwandese Patriotic Front on the repatriation of Rwandese refugees and the resettlement of displaced persons. This was the basis for the tripartite Agreement on the repatriation of Rwandese refugees from Zaire which was concluded at Kinshasa, Zaire, on 24 October 1994 by the Government of the Rwandese Republic, the Government of the Republic of Zaire and the Office of the United Nations High Commissioner for Refugees.

68. The preamble to the Agreement defines "the procedures and specific modalities for the voluntary repatriation and definitive reintegration in Rwanda of Rwandese refugees at present in Zaire, with the assistance of the international community and through UNHCR and, if necessary, with the support of other United Nations agencies and intergovernmental and non-governmental organizations".

69. It imposes a number of obligations on the contracting parties, specifically:

(a) Zaire, the country of asylum, undertakes to respect the relevant clauses of various United Nations and OAU conventions on refugees and to take appropriate measures to ensure that the latter are not unduly influenced in their decisions;

(b) Rwanda, the country of origin, undertakes to adopt political, administrative and possibly customs measures to ensure and facilitate the return and reintegration of refugees in dignity and security, as well as social peace and national reconciliation;

(c) The Office of the United Nations High Commissioner for Refugees undertakes to monitor and supervise any repatriation operation from start to finish, placing particular emphasis on the voluntary nature of the returnees' decision, as well as on their security and dignity.

70. It is to be hoped that this Agreement, which refers to the communiqué of 26 July 1994 marking the meeting between the President of the Rwandese Republic and the President of the Republic of Zaire, will not experience the same fate as that communiqué and will be respected.

## IV. RECOMMENDATIONS

71. The Special Rapporteur deplores the tendency to use the current insecurity in Rwanda as a pretext for suggesting that genocide is commonplace and justifying inaction. To do so is to confuse cause and effect. It overlooks the fact that genocide is to a great extent the cause of insecurity. A correct diagnosis is essential if the right medicine likely to heal the Rwandese sickness is to be found. Without in any way neglecting existing human rights violations, they must be viewed in context and their sources identified so that efforts can be made to eliminate them before it is too late. Rapid, indeed very rapid, action is required if we are not to be the powerless spectators of a second war and further massacres. It is in order to avoid a disaster of this nature that the following recommendations, addressed respectively to the Rwandese Government, the governments hosting refugees and the United Nations, are formulated.

### A. Cessation of human rights violations

72. The United Nations should require the Rwandese Government to put an end to the serious violations of human rights which are being perpetrated in its territory and which comprise searches, arrests, arbitrary detentions, disappearances and summary executions.

73. The United Nations should recommend the following to the Rwandese Government:

(a) The organization of wide-ranging campaigns to make the population aware of the need to respect the physical integrity and property of others, as well as to prepare for a life in common and on good terms;

(b) The adoption, as advocated in the second report of the Special Rapporteur, of forceful administrative measures designed to deter acts of reprisal and at the same time to ensure respect for fundamental rights of anyone who may commit such acts;

(c) Observance of the prerogatives and decisions of the judicial authorities, which is an essential condition for the sound administration of justice.

B. The situation of refugees

74. The United Nations should recommend that the Governments of countries hosting Rwandese refugees, and particularly the Zairian Government which has accepted the greatest number, take appropriate action to ensure that:

(a) The voluntary repatriation of refugees is effectively assured and facilitated;

(b) The refugees are not unduly influenced in one way or another - i.e., either to leave or to remain in the host country;

(c) Systematic information campaigns are organized for this purpose, so that the people concerned can take a fully informed decision;

(d) These Governments abide by their international commitments, particularly those deriving from the relevant provisions of international conventions on asylum and refugees;

(e) Their territories are not used as a base for destabilizing Rwanda or committing acts of aggression against that State.

75. The United Nations should assist in:

(a) Compensating those States for the losses they have suffered as a result of the installation of refugees and the deterioration of their crops and land;

(b) Financing refugee repatriation operations.

C. International assistance to Rwanda

76. The United Nations should formally appeal to Member States, particularly the great Powers and the African States, to provide substantial assistance for the reconstruction of the Rwandese State as a matter of urgency.

77. Such assistance, which should take various forms and be provided in all economic, political, social and cultural sectors, implies a prior overall assessment of needs.

78. In the immediate future, it appears especially urgent to provide the people concerned with food and health assistance designed to enable them to survive, as well as the means to save their crops, livestock and land and to produce the minimum needed to survive.

79. The United Nations should participate actively in this assistance operation and help to organize it. In particular, it should provide the Rwandese State with:

(a) Financial or material assistance in reconstituting the infrastructure of the administrative police, the criminal police, the gendarmerie and the judiciary;

(b) Assistance in judicial and law-enforcement personnel, including the training of policemen, gendarmes and judges, while helping local judges to render justice. In this connection, the United Nations might expand the Special Rapporteur's mandate to embrace technical assistance. Under this proposal, a specialized team of observers would be responsible for training policemen, judges, lawyers and court officers and establishing a Bar with a view to safeguarding the independence of the judiciary.

80. The United Nations should take the initiative in ensuring improved coordination of activities in Rwandese territory, - not only measures to promote human rights or humanitarian law but alwo other activities such as those involving food or military operations. Such coordination is essential in view of the large number and diversity of field activities. It would have the advantage of providing an integrated view of problems and avoiding overlapping, duplication of effort and aid waste.

81. The United Nations should, as soon as possible:

(a) Increase the number of human rights experts and their actual deployment in the field, some of them acting as observers, investigators and instructors at one and the same time;

(b) Launching the International Court which has just been set up, as well as the local courts that are to be established to try persons responsible for genocide, in order to stop, or at least reduce, acts of reprisal;

(c) Establish an appropriate legal framework to ensure the protection of widows and unaccompanied children and guarantee their fundamental rights. For this purpose, it would be appropriate to provide compensation for damage attributable to the perpetrators of massacres or their accomplices;

(d) Create an international force responsible for ensuring security in camps for refugees and displaced persons, as well as arrangements for their repatriation in appropriate conditions of security and dignity.

82. In cooperation with OAU, the United Nations should take steps to:

(a) Create conditions and a framework for a dialogue between various Rwandese political groups both inside and outside the country. This dialogue might lay the basis for a political settlement of the conflict in place of a military settlement;

(b) Convene an international conference on Rwanda designed, as initially recommended in the interim report, to induce the parties to the conflict to negotiate in good faith, taking due account of the Arusha Agreements of 4 August 1993, the conditions for peace, democratic transition, and national reconciliation and unity.

ANNEX II

[Original: Arabic/Chinese/English/
French/Russian/Spanish]

Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Ségui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of resolution S-3/1 of 25 May 1994*

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## INTRODUCTION

1. In accordance with the mandate entrusted to him by the Commission on Human Rights in resolution S-3/1 of 25 May 1994, the Special Rapporteur on the human rights situation in Rwanda has made three visits to that country and neighbouring States. The purposes of these missions were:

(a) The first (9-20 June 1994), in accordance with the Commission's request, "to visit Rwanda forthwith" and "to report on an urgent basis" to its members, submitting a preliminary report within four weeks of the adoption of the resolution. That report (E/CN.4/1995/7 and Corr.1) was issued on 28 June 1994;

(b) The second (28-31 July 1994), to assess the situation in Rwanda following the victory of the Rwandese Patriotic Front (FPR) and to ensure that reprisals would not be inflicted on the Hutu. That report (E/CN.4/1995/12) was issued on 12 August 1994;

(c) The third (16-25 October 1994), to update, supplement and clarify the information contained in the first two reports. That report (E/CN.4/1995/70) was issued on 11 November 1994.

The present report endeavours to summarize the information contained in the three previous reports.

2. The Special Rapporteur wishes at this point to reiterate his sincere thanks to all persons, both Rwandese and foreigners, and United Nations officials who supported him in the execution of these three missions. He wishes to express particular thanks to the Centre for Human Rights and the Committee of Experts on Rwanda for the assistance provided to him by the former in facilitating his work, and for the cooperation he received from the latter in the performance of his mission.

3. It is apparent from these various missions and inquiries carried out that Rwanda has been and remains the scene of serious violations of human rights. In making this observation, however, a distinction should be made between violations committed during and after the hostilities.

## I. VIOLATIONS COMMITTED DURING THE HOSTILITIES

4. The attack which cost the lives of Juvénal Habyarimana, President of the Rwandese Republic, Cyprien Ntayamira, President of the Republic of Burundi, and several persons in their entourage occurred on 6 April 1994 in what was already a tense and explosive social and political situation. It undoubtedly constituted the spark which set off the massacre of civilians. These massacres were followed by the armed conflict between the governmental forces and the Rwandese Patriotic Army. The hostilities and, more particularly, the massacres gave rise to violations of human rights.

## A. The massacres

5. It is true that the people of Rwanda have experienced several massacres, but those perpetrated during the hostilities are without precedent in the history of the country. They are in fact unique in their extent, their planning and their horrific nature.

### 1. Their extent

6. The extent of the massacres has been unequalled in space and in time; they spread like wildfire throughout the country from 6 April up to the end of the hostilities and even beyond that date.

7. Although these massacres are attributable to the two warring parties, who have combined civil war with looting, far more have been committed by the interim Government than by the Patriotic Front.

8. The results have been completely catastrophic: in addition to the massive destruction of property and crops, the loss of human life has been extremely heavy, possibly reaching 1 million.

### 2. Their planning

9. There now seems to be little doubt that the massacres were planned. This is the conclusion reached from a number of consistent indications, not to say evidence, including:

(a) The campaign of incitement to exterminate the Tutsi orchestrated by both the public authorities and the media, including Radio Télévision Libre des Milles Collines (RTLM). Several audio cassettes of broadcasts by Radio Rwanda and RTLM have been made available to the Centre for Human Rights;

(b) The distribution of weapons to the civilian population, and more particularly to members of the militias;

(c) The exceptional speed of events at the outset: roadblocks were set up all over Kigali just 30-45 minutes after the assassinations, even before they had been reported on the radio;

(d) The "screening" carried out at the roadblocks by militiamen and soldiers, and the lists drawn up by the public authorities with the aim of identifying Tutsi, after which they were immediately executed.

### 3. Their horrific nature

10. The horrific nature of the massacres is apparent from the way in which the Tutsi were killed: in most cases they were attacked with machetes, axes, cudgels, iron bars, etc. until they breathed their last.

11. Moreover, the massacres were systematic and spared nobody, not even babies. The victims were hunted down even in their final refuge: orphanages, hospitals and churches.

## B. Violations of human rights

12. The hostilities have given rise to grave, massive and systematic violations of human rights; it is important to analyse the nature, causes and perpetrators of these violations.

### 1. Their nature

13. The charges are threefold: the genocide of the Tutsi, the assassination of the Hutu and other violations of human rights.

#### (a) The genocide of the Tutsi

14. From the definition of the crime of genocide given in article II of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948 (see E/CN.4/1995/7, para. 44), it is apparent that this crime has three constituent elements which might be summarized as follows: a criminal act, "committed with intent to destroy, in whole or in part," a particular group "as such".

15. There does not seem to be any doubt about the first condition, in view of the massacres perpetrated and even the cruel, inhuman and degrading treatment. The second is not difficult to establish either, since such a clear and unambiguous intention is contained in the constant incitements to murder put out by the media (particularly RTLM) and reproduced in leaflets. And even if that were not so, the intention could have been deduced from the facts themselves, on the basis of a variety of concordant indications: preparations for the massacres (distribution of firearms and training of members of the militias), number of Tutsi killed and the result of a policy of destruction of the Tutsi. The third condition, on the other hand, requiring that the ethnic group should be targeted as such, raises a problem, because the Tutsi are not the only victims of the massacres, in which Hutu moderates have not been spared. But the problem is more apparent than real, for two reasons: firstly, many witnesses confirm that the screening carried out at roadblocks to check identities was aimed essentially at the Tutsi. Secondly, and above all, the main enemy, identified with the FPR, is still the Tutsi, who is the inyenzi (cockroach), to be crushed at all costs. The Hutu moderate is merely a supporter of the main enemy, and is targeted only as a traitor to his ethnic group, which he dares to oppose.

16. The conditions laid down by the 1948 Convention are thus met, and Rwanda, having acceded to it on 16 April 1976, is required to respect its principles, which would be binding upon it even without any treaty obligation, since they have acquired the force of customary law. In the Special Rapporteur's view, the term "genocide" should henceforth be used as regards the Tutsi. The situation is different in the case of the assassination of Hutu.

#### (b) The assassination of Hutu

17. The massacres have not spared the members of the Hutu ethnic group, who have not been targeted per se, but for political reasons.

18. On the one hand, the so-called Hutu moderates, with whom certain foreigners are associated by extension, have been massacred by members of the government militias for having associated themselves with the main enemy, thereby betraying their ethnic group. The victims are chiefly human rights activists and political opponents.

19. On the other hand, the so-called Hutu extremists, and in particular the members of the militias, are executed by the Rwandese Patriotic Army in the area controlled by the Rwandese Patriotic Front, notably for their involvement in the massacres.

20. These acts constitute assassinations, and more specifically political assassinations, violating the right to life, which is a fundamental right established by certain conventions binding on Rwanda.

(c) Other violations

21. A number of other fairly diverse, but no less important, rights have also been seriously violated by the parties to the conflict. We would mention the following:

(a) The right to physical and moral integrity, whereby torture and other cruel, inhuman and degrading treatment are forbidden;

(b) International humanitarian law with regard to murders, political assassinations, executions of hostages and other inhuman acts constituting crimes that violate the four Geneva Conventions of 12 August 1949;

(c) Other violations of rights which amount to crimes against humanity because of the assassinations and other inhuman acts committed against the civilian population, and also the acts of persecution for political motives combined with the serious violations of international humanitarian law applicable to armed conflicts.

## 2. The causes

22. The causes of the hostilities, and more specifically the massacres, are of various kinds: economic, political, social and cultural. Three are immediately apparent and indicative of the situation in Rwanda: the rejection of alternate political power, incitement to racial hatred and impunity.

(a) The rejection of alternate political power

23. The rejection of alternate political power, which typifies French-speaking black Africa in general, takes on a special form in Rwanda, where it has strong ethnic overtones. The reason for what is taking place in Rwanda is not ethnic as such, but political, the aim being the seizure of political power, or rather the retention of power, by the representatives of one ethnic group, previously the underdogs, who are using every means, principally the elimination of the opposing ethnic group, but also the elimination of political opponents within their own group. From this standpoint, the portrayal of the main enemy and their supporters, as mentioned

above, is quite revealing (see para. 15). The resistance to the Arusha Peace Agreements of 4 August 1993 is indicative of this and even of the rejection of simple power-sharing or political coexistence.

(b) Incitement to ethnic hatred and violence

24. Since incitement to ethnic hatred and violence has already been the subject of much comment, it will not be dealt with in detail below. Attention is simply drawn to the fact that, unlike what happened prior to 6 April, the public authorities have openly involved themselves in the perpetration of the massacres of Tutsi by giving clear and unequivocal orders. This would seem to be the case with Mr. Sindikubwabo, President of the Interim Government, who, in a speech at Butaré on 19 April 1994, urged the population to "get to work" in the Rwandese sense of the term by using their machetes and axes.

(c) Impunity

25. Impunity, like incitement to murder, is a recurrent cause of the massacres. No legal action has been taken against the chief criminals, the perpetrators of the earlier massacres, whether they are civilians or members of the armed forces and although they are known to all. On the contrary, some have been promoted while persons who showed humanity and refused to soil their hands have been dismissed.

## 3. The perpetrators

26. Although it has not been possible to identify by name all those responsible for the atrocities, as far as the authorities or organs involved are concerned responsibility can immediately be apportioned to:

(a) The Rwandese State authorities and, in particular, senior national political figures, such as a number of ministers, various elements of the government security forces such as the Presidential Guard, the Rwandese Armed Forces and the gendarmerie, and certain local authorities, prefects and mayors;

(b) FPR organs, particularly those in charge of military activities;

(c) Private individuals such as members of the militias, leaders of extremist political parties (National Republican Movement for Development and Democracy (MRND) and Coalition for the Defence of the Republic (CDR), and the founders and broadcasters of RTLM;

(d) Certain foreign States, in the light of their interference in Rwandese politics, which remains to be clarified;

(e) The international community and, in particular, the United Nations, whose response to the urgent needs of the population, especially with regard to security and humanitarian assistance, should also be clarified.

27. The chief perpetrators of the massacres have relentlessly continued their acts since the cessation of the hostilities.

## II. VIOLATIONS COMMITTED AFTER THE HOSTILITIES

28. This second series of human rights violations actually began during the hostilities and continued after the hostilities had ceased. These violations have two distinct sources: the insecurity in Rwanda and the fate of the refugees and displaced persons.

### A. The insecurity in Rwanda

29. In Rwanda, genocide and reprisals are dialectically linked: genocide seems inevitably to lead to reprisals. In the towns of Rwanda, to which the inhabitants and activities are gradually returning, the dead are being mourned but at the same time there is rejoicing whenever a lost relative or friend is found. But by far the greatest concern of the surviving victims, who are deeply shocked, seems to be whether the perpetrators of the genocide will be tried and punished. However, pending the establishment of the international tribunal, people do not hesitate to take the law into their own hands. Hence there are serious violations of human rights, for which the solutions envisaged remain insufficient.

#### 1. Violations of human rights

30. Insecurity, which is again on the increase in Rwanda, is a source of human rights violations, which take the form of serious violations of property rights, the right to personal safety and the right to life.

(a) Violations of property rights

31. For many refugees back in Rwanda, especially those who constituted the old Tutsi diaspora, these violations consist in the illegal occupation of houses and land abandoned by their owners who have fled. When these owners, Hutu for the most part, return and claim their rights, conflicts break out and are in many cases resolved by violent means.

(b) Violations of the right to personal safety

32. These violations mainly take the form of arbitrary arrest and detention. Rwandese prisons are full of people who are awaiting trial for genocide. No arrest warrant or detention order is issued and the persons concerned are kept in places of detention for much longer than the lawful period of police custody. What is worse, persons released by the judicial authorities are rearrested and detained in barracks by the military authorities.

(c) Violations of the right to life

33. These violations are in many cases the result of disappearances of persons and summary executions, not to say massacres, of Hutu. The Government itself acknowledges that members of the armed forces, including officers, have participated in these massacres.

2. Inadequate solutions

34. All the acts committed taken together would appear to constitute reprisals by the victims of genocide. In order to put an end to these violations, the Government has taken a number of measures, which are far from sufficient:

(a) Eviction orders are often flouted and the Government does not have the means to build new housing or distribute land;

(b) The virtual non-existence of genuine administration by the State adds to the difficulties;

(c) Admittedly, more than 100 members of the armed forces have been arrested, but the indiscipline which seems to be rampant in the army does not help matters.

35. Generally speaking, the measures taken cannot in themselves help to assuage the anger and contain the determination of the people to exact revenge; this will be the case until such time as the alleged perpetrators are prosecuted and tried, and for as long as they are able to travel in complete freedom in certain countries and in the refugee camps.

B. The fate of the refugees and displaced persons

36. The hostilities caused an exodus unprecedented in the history of Rwanda which has created the difficult problem of the return of the refugees and displaced persons.

1. The exodus of Rwandese

37. The exodus resulting from the hostilities has been enormous, particularly since it has been twofold in character, the movement of displaced persons within the country being combined with the flight of refugees abroad.

(a) The displaced persons

38. The war and, in particular, the massacres have led to mass population movements within the country. More than 2 million people, fleeing the hostilities, left their hills for other regions where they felt more secure. Some kept constantly on the move on the hills, while others were herded into so-called displaced persons' centres or camps, where they all eked out an extremely difficult existence, dominated by total insecurity - physical and moral insecurity and insecurity as regards their food and health.

39. But as the fighting drew nearer, the camps would empty and some or all of their occupants would simply be massacred. However, large numbers of people were able to flee and settle in the south-west of the country, in the area covered by the former "Operation Turquoise", and did not cross the Zairian frontier.

(b) The refugees

40. The hostilities caused many other Rwandese to leave their country and take refuge in neighbouring States: Zaire, Tanzania, Burundi and Uganda. The situation of these refugees has been deteriorating.

41. At the beginning of the events, it was mainly the massacres which prompted several thousand Rwandese, and particularly the Tutsi, to go into exile. The total number of refugees at that time was close to 1 million. Tanzania gave shelter to the largest number, estimated at 410,000, including 330,000 in the Benaco camp alone. This huge flow of refugees already at that time constituted a risk of political destabilization for the neighbouring States because of overpopulation, the spilling-over of political and ethnic tensions, and insecurity.

42. Towards the end of the hostilities, millions of people, mainly Hutu, fled before the victorious advance of the FPR army and burst across the borders of neighbouring States in search of refuge particularly in Zaire. At the end of July 1994, between 12,000 and 20,000 refugees an hour were arriving in Goma; at that time the number of refugees was estimated at 2.5 million, including 1.2 million in Goma alone. This Zairian city, which was the base for "Operation Turquoise", thus became the principal refugee centre, being larger than the Benaco camp in Tanzania. The overpopulation of Goma, in precarious living conditions, contained the seeds of a human tragedy which made it a unique case. The consequences were predictable: famine was followed by a cholera epidemic and dysentery, which killed several thousand persons. Despite these sufferings, the refugees are reluctant to return to their country because they fear for their lives.

2. The return of the refugees and displaced persons

43. The return of refugees and displaced persons to Rwanda and the hills where they live continues to be the international community's main concern. Unfortunately, their return, which began at the end of the hostilities, is at present being slowed down, if not completely blocked, by the strong pressure being exerted on the refugees and displaced persons - in a very appropriate framework.

(a) Strong pressure

44. This pressure takes the form of the constant threat to persons wishing to return by the old governing group now in exile. It is clear from large-scale campaigns orchestrated by the old ruling group that return will be possible only as a result of political negotiations entailing a general amnesty or, otherwise, a resumption of civil war with the aim of regaining power. Those who do not take the advice offered and return would run the risk of being the first targets in the event of a reconquest of power.

(b) An appropriate framework

45. The framework devised and set up to maintain the pressure and thus block voluntary departures is institutional, political and administrative in nature.

46. The institutional framework involves simply reconstituting in the camps the political and administrative structures that exist in Rwanda, namely, the prefectures, communes and, in some cases, sectors.

47. The system of control of refugees and displaced persons gives the perpetrators of the genocide, through their local representatives, substantial powers:

(a) Registering arrivals in the camps gives them significant powers of control;

(b) The distribution of foodstuffs and other humanitarian supplies places in their hands a food weapon which they use and abuse, bringing the rebels into line and diverting stocks of food which are sold on the markets of receiving countries;

(c) The imposition of punishment, with exercise of the right of life or death, enables mayors, militiamen and bandits to impose gun law, creating an atmosphere of total and permanent insecurity in the camps.

48. The solution to the problem of the return of the refugees undoubtedly lies, as the Secretary-General of the United Nations has envisaged, in the separation of the politicians, in other words, the former political authorities, military personnel and militiamen, from the rest of the refugee and displaced population.

## III. CONCLUSIONS AND RECOMMENDATIONS

49. In conclusion, the Special Rapporteur wishes to state that he deplores the tendency to use the current insecurity in Rwanda as a pretext for suggesting that genocide is commonplace and justifying inaction. To do so is to confuse cause and effect. It overlooks the fact that genocide is, to a great extent, at the origin of the insecurity.

50. A correct diagnosis is essential if the right medicine for the Rwandese sickness is to be prescribed. Without in any way neglecting existing human rights violations, they must be viewed in context and their sources identified so that efforts can be made to eliminate them before it is too late. Rapid, indeed very rapid, action is required if the international community is not to be the powerless spectator of a second war and further massacres.

51. It was in order to avoid a disaster of this nature that the Special Rapporteur made recommendations in his three reports, notably in document E/CN.4/1995/70 (chap. IV). These recommendations include the following:

Recommendation No. 1

The United Nations should require Rwanda and the countries which have accepted refugees to abide by their international commitments, particularly those deriving from the relevant provisions of the conventions relating to human rights, refugees and asylum.

Recommendation No. 2

The United Nations should, as soon as possible:

(a) Initiate the International Court for Rwanda which has been set up by the Security Council (resolution 955 (1994) of 8 November 1994), and also the local courts that are to be established in order to try persons charged with genocide, so as to stop, or at least reduce, acts of reprisals;

(b) Establish, first, an international force responsible for ensuring security in the camps for refugees and displaced persons, and secondly, arrangements for the repatriation of refugees and displaced persons in appropriate conditions of security and dignity.

Recommendation No. 3

The United Nations should formally and urgently appeal to Member States, particularly the major Powers and the African States, to provide:

(a) Substantial assistance in the reconstruction of the Rwandese State as a matter of urgency. Such assistance, which should take various forms and be provided in all economic, political, social and cultural sectors, presupposes a prior overall assessment of needs;

(b) Assistance with regard to judicial and law-enforcement personnel, including the training of policemen, gendarmes and judges, while helping local judges to render justice. In this connection, the United Nations might expand the Special Rapporteur's mandate to include technical assistance. Under this proposal, a specialized team of observers would be responsible for training policemen, judges, lawyers and court officers and establishing a Bar in order to safeguard the independence of the Judiciary.

Recommendation No. 4

In cooperation with the Organization of African Unity, the United Nations should take steps to:

(a) Create conditions and a framework for a dialogue between the various Rwandese political groups both inside and outside the country. This dialogue might lay the foundations for a political settlement of the conflict in place of a military settlement;

(b) Convene an international conference on Rwanda designed, as initially recommended in the interim report, to induce the parties to the conflict to negotiate in good faith, taking due account of the Arusha Agreements of 4 August 1993, the conditions for peace, democratic transition, and national reconciliation and unity.

ANNEX III

[Original: Arabic/Chinese/English/
French/Russian/Spanish]

Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Ségui, Special Rapporteur of the Commission on Human Rights, under paragraph 20 of resolution S-3/1 of 25 May 1994*

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* Previously issued under the symbol E/CN.4/1996/7 of 28 June 1995.

## Introduction

1. In accordance with the mandate entrusted to him by the Commission on Human Rights in resolution S-3/1 of 25 May 1994, which was extended by resolution 1995/91 of 8 March 1995 (para. 19), the Special Rapporteur visited Rwanda from 27 March to 3 April 1995 and again from 25 to 28 May 1995. The first visit formed part of the follow-up to his mission, its purpose being to ascertain the progress made in the deployment of the human rights observers in the field and in the inquiry into the genocide during the period before the first anniversary of the beginning of the massacres and the war. The second visit was made in response to the need to gather information on the recent tragic events which occurred when the displaced persons' camp in Kibeho was forcibly closed by members of the Rwandan Patriotic Army.

2. The Special Rapporteur also travelled to Belgium, France, Canada and the United States.

3. During his visit to Rwanda and the four other countries, the Special Rapporteur was able to speak with members of the Rwandan Government, representatives of the various United Nations agencies working in Rwanda, foreign diplomats accredited to Rwanda, representatives of non-governmental organizations, judicial authorities and a number of witnesses of the massacres of April-June 1994, detainees, judges, officers, various foreign personalities, human rights activists and journalists.

4. Among the prominent persons whom the Special Rapporteur met, mention should be made of:

(a) Prominent persons (Rwandan)

Mr. Pasteur Bizimuongu, President of the Republic; Mr. Faustin Twangiramumgu, Prime Minister; Mr. Seth Sendashonga, Minister of the Interior; Mr. Alphonse-Marie Nkubito, Minister of Justice; Mr. Anasthase Gasana, Minister for Foreign Affairs; the prefect of Kibuye.

(b) Prominent persons (non-Rwandan)

In Rwanda: Mr. Shaharyar Khan, Special Representative of the Secretary-General in Rwanda; Major-General Claude Toussigant, Force Commander of the United Nations Assistance Mission to Rwanda (UNAMIR); the Resident Representative of the United Nations Development Programme in Rwanda; the Chargé d'affaires of the Apostolic Nuncio in Rwanda, the Deputy Prosecutor of the International Tribunal for Rwanda, Judge Rakotomanana; the Ambassadors of Belgium and the United States; the chief of the delegation of the International Committee of the Red Cross in Kigali; the delegates of the Agency for Cultural and Technical Cooperation on mission in Rwanda.

In Belgium, France, Canada and the United States: Mr. Andries, Military Auditeur, and Mr. Van Winsen, former Military Auditeur in Brussels; General Dallaire, former Commander of UNAMIR; Mrs. Prudence Bushnell, United States Deputy Assistant Secretary for African Affairs; Mr. Reed Fendrick, Deputy Director of the Central Africa Office in the United States Department of State; members of the Canadian League of Human

Rights and several other leagues affiliated to the International Federation of Human Rights; Mrs. Iris Almeida, Programme Director in the Centre for the Rights of the Individual and Democratic Development in Montreal.

5. The Special Rapporteur would like to express his sincere thanks to all these persons who supported him in the preparation and conduct of his mission. He is particularly grateful to the Special Representative of the Secretary-General in Rwanda and the Commander of MINUAR for their assistance, logistical support and generous cooperation.

6. The conversations he held and the visits he made in the field and in prisons enabled the Special Rapporteur to assess the situation in Rwanda, stressing the progress of the inquiry into the genocide, the monitoring of the human rights situation and the problem of the return from the exodus.

## I. THE INQUIRY INTO THE GENOCIDE

7. The Special Rapporteur wishes to place special emphasis on this crime against humanity, which has particularly affected the people of Rwanda. Notwithstanding the reference to genocide, the inquiry covers all violations of human rights. As a result of the field visit, it was possible to assess the deployment of the observers and the progress made in the inquiry.

### A. The deployment of observers

8. In his third report (E/CN.4/1995/70 of 11 November 1994) the Special Rapporteur criticized the delay in the deployment of the observers. The situation at that time was characterized first by the absence of observers in the field, and later by the presence of a group of observers in Kigali who were unable to move into the field through lack of practical resources and logistics. Since then, substantial progress has been achieved, but the conduct of the human rights operation is beset with a number of difficulties.

#### 1. The conduct of the human rights operation

9. This operation, which began in mid-August 1994 with four observers, has developed considerably, judging from the number of observers and their formation in teams and operational units.

(a) The number of observers

10. Following the Special Rapporteur's recommendations in his second report (E/CN.4/1995/12 of 12 August 1994) for the deployment of 150 to 200 observers, the Centre for Human Rights, by agreement with the Government of Rwanda, set a figure of 147. This figure roughly corresponded to the number of Rwandese communes (143). Having started with four observers, the operation slowly but steadily grew in size, increasing from 22 to 38 observers in October 1994, to 127 in April 1995, but falling to 122 in May. As at 22 June, the number of observers stood at 112.

11. This result was achieved thanks to various contributions: apart from the 51 observers recruited by the Centre for Human Rights, 27 were recruited by the United Nations Volunteers Programmes and 31 by the European Union.

It should be pointed out that the target figure of 147 observers has still not been achieved and that recruitment has had to be slowed down if not completely stopped at certain times through lack of resources. Thus, from 1 to 22 June 1995, the number of observers fell from 119 to 112. According to forecasts, it will drop again in the near future.

(b) The formation of teams

12. The observers are deployed in teams comprising some four to eight persons per unit. Eleven teams are assigned to regional offices in the various prefectures as follows: Butaré (9 members), Cyangungu (9), Gikongoro (8), Gisenyi (8), Gitarama (6), Kibungo (3), Kibuye (6), Kigali (7), Rilima (4), Ruhengeri (6) and Rwamagana (4). A sub-office has been opened in Nyamasheke in the prefecture of Cyangungu. Two human rights observers have been deployed in the north-east of the prefecture of Byumba to assess the possibility of opening an office in that region.

13. At the time of drafting the present report, all the prefectures in Rwanda, with the exception of Byumba, have a team of observers. Each team is headed by a team leader, who reports to the chief of the operation. In the light of their various activities, the observers are assigned to operational units.

(c) The operational units

14. The mission has set up three units: the legal analysis and coordination unit, the monitoring unit and the technical assistance unit.

(i) The legal analysis and coordination unit

15. In the context of the inquiries into the genocide and other serious violations of human rights, a special investigation unit was set up back in September 1994 to assist the Commission of Experts on Rwanda and the Special Rapporteur on Rwanda. The Commission of Experts having completed its work, this unit has continued to carry out inquiries as needed by the Special Rapporteur. As mentioned in the operational plan of the operation, experts from Finland, the Netherlands, Norway, Spain, Switzerland and the United States have undertaken far-reaching inquiries into the genocide (forensic examination of massacre sites and charnel-houses, interviews with survivors and witnesses) and compiled documents and other tangible evidence which have been transmitted, by agreement with the Special Rapporteur, to the International Tribunal for Rwanda. As a result of the establishment of an investigation unit of a judicial character within the Tribunal, the special investigation unit has been disbanded and replaced by the legal analysis and coordination unit. The latter unit is to continue inquiries into the genocide and other crimes against humanity in response to the needs of the Special Rapporteur.

(ii) The monitoring unit

16. The monitoring unit is undertaking the inquiry into past and present violations of human rights. The observers assigned to it and deployed in various regional offices report, in accordance with the above-mentioned operational plan, on the following:

(i) Progress made towards national reconciliation;

(ii) The existence of courts or magistrates responsible for settling disputes between Rwandan nationals;

(iii) The availability of housing and other structures for persons returning to Rwanda;

(iv) Measures taken by the local authorities or the Rwandan Patriotic Army concerning Rwandan returnees and the administrative practices to which the latter are subjected;

(v) Security conditions in their zone;

(vi) The availability of basic foodstuffs and services; and

(vii) The formulation of education and information programmes on human rights intended for Rwandan officials and the population as a whole.

(iii) The technical assistance unit

17. This unit deals with the assistance to be given to the Government in restoring the rule of law and confidence in civil society. It is participating in the efforts to rebuild the Rwandan judicial system, through the contribution of judicial personnel and through the training of magistrates and other court officers.

18. This unit, which is still very small in size (two members as of 2 April 1995), is due to expand, especially since on 22 February 1995 the Rwandan Minister of Justice addressed a letter to the Special Representative of the Secretary-General in Rwanda indicating the human resources needs of his Ministry, which were estimated at 678 persons (including magistrates and police investigators).

2. The difficulties encountered by the operation

19. The human rights operation in general and the Special Rapporteur in particular are encountering difficulties which are placing the mission in jeopardy. The difficulties are of two types: practical and political.

(a) The practical difficulties

20. The practical difficulties essentially amount to the shortage of financial resources. Apparently, the Centre for Human Rights receives the financial resources to be allocated to the operation in very small amounts at a time; consequently, there is constant uncertainty and anxiety about the survival of the mission beyond the following three months.

21. This has at least two unfortunate consequences. The first is the shortage of human rights observers; despite the increase in their number, they have not yet reached the target figure of 147, even though a period of more than six months has elapsed since the commencement of the operation. What is

more, the already inadequate number of observers is tending to decrease since, through lack of resources, the contracts of some observers are not being renewed. This situation is particularly regrettable because these people will have to leave at the very time when they are beginning to adapt to their socio-cultural environment and above all are gaining experience. The second consequence derives, despite the progress achieved, from the lack of certain equipment: thus some regional offices have neither telephones nor fax, which results in the disruption of communications between several offices and headquarters.

(b) The political difficulties

22. The human rights operation in general and the Special Rapporteur in particular are encountering difficulties that are preventing them from fulfilling their mission in the most effective manner possible.

23. As regards the operation, much criticism has been directed at its inefficient functioning, due notably to lack of experience, to the fact that it is directed from Geneva and to the contradictory orders given by the Geneva offices. Some of this criticism is very harsh and is in some cases poorly formulated, but the substance remains.

24. Not all the difficulties will be outlined. Reference will be made only to the political difficulties, those affecting relations between the operation and the Rwandan authorities, on the one hand, and the relations between the Special Rapporteur and the Special Procedures Branch of the Centre for Human Rights, on the other.

(i) Relations between the operation and the Rwandan authorities

25. The Rwandan authorities, both national and local, complain about the behaviour of the human rights observers. They accuse them of putting too much emphasis on the human rights violations being committed at present and accordingly neglecting the inquiry into the genocide. They maintain that the observers' action is "very police-oriented" and that the observers use legal terms such as "arbitrary arrests and detentions", the word "arbitrary" being, in the view of the authorities, equivalent to "unlawful".

26. Among the consequences of these complaints, which have been officially addressed to the chief of the operation, have been searches of the observers and their exclusion from certain detention centres, including solitary confinement cells, despite the headquarters agreement governing the activities of the operation in Rwanda and the authorizations duly issued by the Minister of Justice. The dialogue with the national authorities entered into by the United Nations High Commissioner for Human Rights and the Special Rapporteur has made it possible to assess the situation and to dispel certain misunderstandings, but certain obstacles remain, including those relating to access to solitary confinement cells.

(ii) Relations between the operation and the Special Rapporteur

27. The relations between the operation and the Special Rapporteur remain very theoretical and practically non-existent. They are filtered by the Special Procedures Branch, which forms a kind of screen blocking access to information needed by the Special Rapporteur.

28. The operation is planned and executed, without any participation by the Special Rapporteur, by the Special Procedures Branch, which directs all activities from Geneva. Moreover, the hierarchical system in the Centre requires that the observers and other investigators deployed in the field should address their reports not to the Special Rapporteur through the chief of mission, but along a chain which runs from the team leader to the High Commissioner and passes through the unit chiefs, the coordinators, the chief of mission and the chief of the Special Procedures Branch. In the other direction, the Special Rapporteur is obliged to transmit his instructions to the operation through the Office of the High Commissioner, who forwards them via the Special Procedures Branch, going down through the various levels of the hierarchy. The chief of mission is forbidden, even in urgent situations, to contact the Special Rapporteur directly.

29. This situation has three consequences. The first is the slow movement of information in both directions. This was the case with the distressing events which occurred at Kibeho on 22 April 1995; the written reports on those events remained in the files of the chief of the Special Procedures Branch, despite the Special Rapporteur's urgent request to see them. The Special Rapporteur was unable to obtain a copy of the report until 6 May, when he received it from the chief of the operation, bypassing the hierarchical procedure. The press release drafted by the Special Rapporteur on the events at Kibeho met with a similar fate. The second consequence is that there is a sifting of information within the Special Procedures Branch, which communicates to the Special Rapporteur only what it sees fit to give him. The documents transmitted amount to no more than insubstantial summaries of reports, which are accordingly of no interest to the Special Rapporteur. The third consequence is that the withholding of information has been accompanied by the disappearance of documents. Strangely, three sets of very important documents have disappeared in succession, and the Special Rapporteur's urgent appeals for proper investigations to find the documents have had no effect. It is as if there were a lack of willingness to cooperate with the Special Rapporteur, in breach of Commission on Human Rights resolution S-3/1 of 25 May 1994 on the situation of human rights in Rwanda. Under paragraph 25 of this resolution, the Commission "Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to fulfil his or her mandate".

## B. Progress achieved

30. The progress made in the inquiry should be measured in terms of both fact-verification and the contribution of the International Tribunal.

### 1. Fact verification

31. The investigations conducted by observers deployed throughout Rwanda have verified, on the basis of eyewitness accounts and other evidence, the commission of acts constituting human rights violations.

#### (a) Eyewitness accounts

32. Human rights observers have gathered many eyewitness accounts from survivors and military observers present during the hostilities, from soldiers of the Rwandan Patriotic Army (APR), staff of non-governmental

organizations and members of the clergy. These accounts concern both the genocide and other violations of human rights and international humanitarian law.

(i) Genocide

33. Concurring eyewitness accounts of the massacres were gathered and systematically selected prefecture by prefecture. Incidents which occurred in a number of prefectures are described below by way of illustration.

34. In the prefecture of Butaré, eyewitnesses reported that almost 10,000 refugees were attacked with machetes in the stadium and massacred on 18 April. In Nyakibanda, 5,000 refugees were attacked over a four-day period beginning on 23 April. The survivors identified a number of individuals who had organized and carried out the massacres, including a senior political official of the former regime, who is thought by some eyewitnesses to have organized and coordinated the attacks.

35. In Cyangungu prefecture, more than 5,000 Tutsis were penned up in the stadium, without protection from the sun and rain. Many were struck with machetes. Soldiers came periodically to fetch persons to be massacred on the basis of pre-established lists. At 4 a.m. on Friday, 29 April, the terrorized hostages tried to break out of the stadium en masse and the soldiers fired into the crowd. Witnesses report having seen prisoners from Cyangungu burying three truckloads of bodies not far from the Hôtel des Chutes in the afternoon of 29 April.

36. In Gisenyi prefecture, from 7 April 1994 onwards the families of Tutsi teachers from various the schools in Nyundo (small seminary, art school, etc.) began to take refuge in the seminary with the staff. At 5 p.m., a mob of assailants armed with machetes and clubs attacked the seminary, but were dispersed by gendarmes. However, they returned about 8 p.m. and attacked again, massacring everyone hiding in one of the seminary chapels. On 8 April, the gendarmes guarding a number of Bagogwe asked them and the survivors of the massacres to go into the cathedral where, they claimed, they would be safer. On 9 April, militiamen attacked the cathedral and killed everyone inside. More than 300 persons are reported to have been massacred. On 1 May, 218 survivors of the massacres of 9 April were themselves executed.

37. In Kibuye prefecture, on 15 April 1994 the population of Gitesi took refuge in the town stadium, the church and the Saint-Pierre Home, together with refugees from other communes. On the orders of the former mayor, the stadium was guarded by gendarmes. There were about 6,000 people in the stadium, 3,250 in the church and approximately 200 in the Home. On 16 or 17 April, massacres took place in the church and Saint-Pierre Home. Three days later, the massacres spread to the stadium. As the gendarmes who had been guarding the stadium had withdrawn, the massacres were carried out methodically and systematically, beginning with the most prominent individuals. Survivors who succeeded in escaping to the Karongi hills were also attacked. Many of them died and the few survivors fled to Bisegiro.

38. In Kigali prefecture, eyewitnesses reported seeing militiamen and gendarmes carrying out massacres of Tutsis between 9 and 13 April. A number

of Tutsi leaders were massacred by units of the Presidential Guard. Groups of militiamen belonging to the Coalition pour la défense de la République (CDR) armed militia were organized in each district of Kigali. In Cyahafi district, the massacres began in the morning of Thursday 7 April.

(ii) Other grave violations of humanitarian law

39. The genocide of the Tutsis, the massacres of moderate Hutus and the renewed fighting in the civil war which followed were marked by many grave violations of international humanitarian law. These ranged from the burning of houses and property of victims or fugitives, to the taking of women hostages, rape, torture of prisoners and summary executions. The massacres mentioned as examples in the section on genocide also involved, mutatis mutandis, instances of such violations.

40. It should also be mentioned that, as the hostilities extended over the whole of Rwanda, and despite the difficulty of establishing the exact nature of violations committed in the areas controlled by the Rwandan Patriotic Army (APR), eyewitnesses report seeing several instances of violations of humanitarian law committed by the APR. A few examples are worth mentioning here. The first concerns the massacres committed by APR soldiers in some districts of Kigali, including Kimihura, Kacyiru, Remera and Gikondo. Eyewitnesses gave the names of members of massacred families. The second example concerns the massacre of 250 of the 587 Batwa in Ntongwe commune by APR soldiers. These Batwa, together with a number of Hutu villagers, were said to have responded to an appeal by the Rwandan Patriotic Front at the end of the war to return to their homes. All these facts, together with the genocide of the Tutsis, should be investigated more thoroughly and, if necessary, prosecutions should be brought by the International Tribunal for Rwanda.

(b) Evidence

41. The evidence relates mainly to the identification of sites of mass graves and the discovery of government documents, weapons used in the massacres and tape recordings of genocide propaganda.

(i) Identification of mass grave sites

42. The special investigation unit succeeded in identifying several hundred mass graves throughout Rwanda. The list of these graves, established prefecture by prefecture, has been forwarded to the Office of the Prosecutor, who is responsible for ordering any exhumations.

43. However, the extent of the special unit's work was limited in two ways. Firstly, the identification was not exhaustive, giving only an indicative list of the largest graves. Secondly, it is difficult, if not impossible, to determine the exact location of many graves and the precise number of bodies they contain. The graves mentioned in this report merely give a rough idea of the scale of the massacres perpetrated in Rwanda from 6 April 1994 onwards.

44. In the prefecture of Butaré (Kigembe commune, Nyanza sector, Rugizo district), for example, several mass graves located between the cantonal court

and the offices of the commune are thought to contain almost 5,000 bodies. Similarly, in Cyangugu prefecture, a mass grave discovered between the church and the hospital is thought to contain most of the bodies of the 2,000 to 3,000 persons murdered in the church, and in Nyamasheke sector (Kagamo commune) 15 mass graves thought to contain 4,000 to 6,000 bodies were identified around the parish. In Gikongoro prefecture (Kivu commune, Nyabirondo sector and district), a number of mass graves was discovered in the grounds of the Catholic school and church. Also, in Kibuye prefecture (Gitesi commune), mass graves thought to contain about 8,000 bodies were discovered near the Catholic church, as well as other graves containing about 10,000 bodies.

(ii) Documents

45. The members of the special investigation unit also obtained and examined documents as numerous as they were varied. They can be grouped into five major categories: documents of the former Government and the Coalition pour la défense de la République (CDR); documents of United Nations bodies, particularly UNAMIR (daily situation reports); documents of various States, particularly those with embassies in Rwanda: United States, Spain, France (Operation Turquoise); documents of non-governmental organizations, including those which witnessed the massacres at first hand; media documents, i.e. the foreign and national press, newspapers (Kangura) and audio cassettes of the Radio Télévision Libre des Mille Collines (RTLM).

46. One document, for example, showed the structure and functioning of the militias, as well as information on the training given to them by the Presidential Guard. It also shows that the interahamwe militias ("Those who attack together") were planning to eliminate moderate Hutu opponents as early as 1992. Another document contains the results of a 1992-1993 census of the inhabitants of each commune and gives their ethnic origin, sex and age. It also provides quite detailed information on the planning of massacres in areas with large Tutsi populations. Other documents contain lists of Tutsis and moderate Hutu opponents to be killed, beginning in May 1992. The Special Rapporteur also received lists of the main organizers of the genocide in certain prefectures: Butaré, Gisenyi, Kibungo (Kayonza and Rusumo communes), Kigali-ville (Kicukiro and Nyarugenge communes). All these documents have been made available to the International Tribunal.

2. Contribution of the International Tribunal for Rwanda

47. The establishment of the International Tribunal will help to further the genocide investigation by virtue of the concurrent jurisdiction which it exercises with the national courts and the Special Rapporteur.

(a) The international tribunal and national courts

48. Under article 1 of its Statute, "The International Tribunal for Rwanda shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994, in accordance with the provisions of the present Statute". This provision

defines the jurisdiction of the Tribunal in respect of subject matter, as well as its territorial, personal and temporal jurisdiction. With regard to subject matter, the Tribunal is competent to deal with the violations defined in article 2 (genocide), 3 (crimes against humanity) and 4 (violations of article 3 common to the Geneva Conventions and of Additional Protocol II). With regard to territorial jurisdiction, the Tribunal may prosecute persons responsible for crimes committed in Rwanda and Rwandan citizens responsible for crimes in neighbouring countries. In his report of 13 February 1995 to the Security Council on the implementation of resolution 955 (1994) (S/1995/134), the Secretary-General states: "In extending the territorial jurisdiction of the Tribunal beyond the territorial bounds of Rwanda, the Council envisaged mainly the refugee camps in Zaire and other neighbouring countries in which serious violations of international humanitarian law are alleged to have been committed in connection with the conflict in Rwanda". The temporal jurisdiction of the Tribunal is limited to the period between 1 January and 31 December 1994. The Secretary-General's report states in this regard: "Although the crash of the aircraft carrying the Presidents of Rwanda and Burundi on 6 April 1994 is considered to be the event that triggered the civil war and the acts of genocide that followed, the Council decided that the temporal jurisdiction of the Tribunal would commence on 1 January 1994, in order to capture the planning stage of the crimes". Finally, the personal jurisdiction of the Tribunal involves prosecuting those responsible for the violations referred to in articles 2, 3 and 4 of the Statute.

49. Thus, the International Tribunal may prosecute all persons responsible for the acts referred to above. But this is only a principle, or even an ideal, the implementation of which comes up against practical difficulties that considerably limit its scope. In view of the widespread participation of Rwandans in the acts in question, it will be virtually impossible for the International Tribunal to deal with all cases of persons responsible. Consequently, the national courts of Rwanda and other countries will be called on to deal with the cases referred to them. Concurrent jurisdiction is provided for explicitly in article 8, paragraph 1, of the Tribunal's Statute, as follows: "The International Tribunal for Rwanda and national courts shall have concurrent jurisdiction to prosecute persons for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994".

50. The International Tribunal will certainly have jurisdiction to prosecute major criminals, i.e. those who planned, organized and gave the orders for crimes against humanity. The national courts, for their part, will prosecute persons responsible found in their national territory. Thus, contrary to an opinion which is widely held, particularly in Rwanda, the International Tribunal will not be the only court empowered to deal with all cases. In his report of 4 June 1995 to the Security Council (S/1995/457), the Secretary-General notes that "investigations will be carried out ... covering 400 identified suspects, most of whom have sought refuge abroad".

51. The shared wish of both the victims and those presumed responsible for the genocide that the International Tribunal should be accorded exclusive jurisdiction will thus not be fulfilled. Their only consolation may be the primacy of the International Tribunal over national courts. Under article 8,

paragraph 2 of its Statute, "The International Tribunal for Rwanda shall have primacy over the national courts of all States. At any stage of the procedure, the International Tribunal for Rwanda may formally request national courts to defer to its competence in accordance with the present Statute and the Rules of Procedure".

52. To the satisfaction produced by the primacy of the International Tribunal has been added its long-awaited establishment (see the Secretary-General's report to the Security Council pursuant to paragraph 5 of Council resolution 955 (1994) (S/1995/134 of 13 February 1995)). By resolution 977 (1995) of 22 February 1995, the Security Council established the seat of the Tribunal at Arusha; the Secretary-General has appointed the Prosecutor and Deputy Prosecutor of the Tribunal, and on 24 and 25 May 1995 the General Assembly elected the six judges of the Trial Chambers of the Tribunal (see A/49/889 of 26 May 1995), from a list of 12 candidates submitted by the Security Council (resolution 989 (1995) of 24 April 1995). They were formally invested on 27 June 1995 at The Hague. On 27 February 1995, the Security Council adopted resolution 978 (1995) concerning cooperation between States and the International Tribunal for Rwanda, in which it urged States to arrest and detain persons found within their territory against whom there is sufficient evidence of involvement in the genocide, pending prosecution by the International Tribunal. Although this resolution is non-binding, States are expected to cooperate in implementing it in good faith.

(b) The International Tribunal and the Special Rapporteur

53. Unlike the International Tribunal, the Special Rapporteur is not invested with legal powers but, as his mandate involves inquiries, both institutions are called upon to conduct investigations of the same events. This requires close cooperation between the Special Rapporteur and the Tribunal, which, after all, belong to the same organization, the United Nations.

54. In order to determine the terms of this cooperation, the Special Rapporteur met the Prosecutor of the International Tribunal at The Hague on 2 March 1995 and his Deputy in Kigali on 29 March. These meetings revealed a firm resolve on both sides to cooperate closely in establishing the facts and preparing reports, in particular by regular exchanges of data, information and documents.

55. However, while the Tribunal's contribution to the international investigation of the crimes is invaluable, it restricts the action of the Special Rapporteur, who has a political mandate and may, by holding public proceedings, compromise the judicial inquiry which, on the contrary, calls for confidential proceedings. He will thus be obliged to observe confidentiality regarding certain facts and information which, if published, could be detrimental to the inquiry and judicial proceedings and ultimately prevent the truth from coming out. Consequently, the Special Rapporteur should not be expected to publish all information brought to his attention. Information gathered regarding the present human rights situation is another matter.

## II. THE MONITORING OF THE HUMAN RIGHTS SITUATION

56. The current human rights situation in Rwanda has barely changed and is still characterized by serious violations of property rights, personal security and the right to life.

## A. Violations of property rights

57. In his third report (E/CN.4/1995/70 of 11 November 1994) the Special Rapporteur singled out the illegal occupation of property as one of the most frequent forms of violation of human rights in Rwanda. The Government had envisaged several solutions, the most noteworthy of which seems to be the establishment of a commission to settle property and land disputes. However, that commission has failed, and it cannot be compensated for by inadequate solutions.

### 1. The failure of the land dispute committee

58. The Inter-Ministerial Committee for urgent action on property and disputes over business establishments, set up in August 1994, is composed of nine ministers and presided over by the Minister of the Interior. It is assisted by a technical committee of experts under the orders of the Minister, who has the power to approve that committee's decisions, the Inter-Ministerial Committee intervening only in serious cases.

59. The Inter-Ministerial Committee has experienced many difficulties in enforcing its decisions. Its eviction measures come up against various obstacles, and several forms of resistance may be cited. Some of them are actually carried out by law enforcement officers entrusted with this task. Gendarmes and soldiers show preference for their families or friends who are illegal occupants by not carrying out the evictions. The strongest resistance comes from the occupants themselves, who use various stratagems, four of which bear mention: being absent on the day the eviction is to be carried out, thereby paralysing the action of the law enforcement officers; leaving older people on the property at the time eviction is due to be carried out, which is intended to prevent forcible eviction, given the respect for older people in Africa in general and Rwanda in particular; appealing to groups of friends to provide physical opposition to the eviction; and seeking the protection of army officers, who sometimes order the arrest of soldiers in charge of the evictions.

60. In total, the actual rate of implementation of evictions, which was initially four every Friday, scarcely exceeds 30 per cent. Furthermore, individuals relocated by the Committee have had to accept the idea of leaving their homes and living in hiding, after receiving threats from evicted occupants. Worse still, individuals who have been reinstated in their property have been arrested or have even disappeared or been murdered.

61. Some examples brought to the observers' attention may be cited. One individual, having been summoned by the head of the Gitega sector to settle the dispute regarding his brother's house, was apprehended between 22 and 24 February 1995 by gendarmes from the Nyamirambo station and accused of belonging to the extremist Democratic Republican Movement (MDR). However, there are reliable indications that he was arrested because he owned two houses and also managed his brother's house. This person is still being held at Nyamirambo gendarmerie station while his two houses have been illegally occupied by a colonel of the Rwandan Patriotic Army (APR) and a woman, both of whom allegedly took possession of the premises the day after his arrest.

A similar fate was met by a family who succeeded in getting the illegal occupants of their house at Kigali "evicted" but stood helplessly by when, at 6 a.m. on 25 August 1994, the head of the family ("husband and father") was taken away by two soldiers. His wife's attempts to find him have been unsuccessful. This is also the case of Gervais Birekeraho, a Hutu merchant from Kigali, whose story merits a brief summary. Accused of having taken part in the genocide, he was arrested but succeeded in proving, thanks to a number of pieces of evidence - including his passport, which contained stamped foreign visas - that he had been abroad at the time of the hostilities and massacres. He was released, but while he was trying to regain possession of his many properties, he was abducted. His wife notified the Human Rights Field Operation. Inquiries led to the discovery of his body a few days later.

62. Given the failure of the Committee, other solutions have been proposed within the framework of technical assistance to Rwanda.

### 2. Inadequate solutions

63. The proposed solutions consist basically of measures for building new housing. This project is part of the repatriated refugee resettlement plan and is managed by the United Nations Development Programme (UNDP). The Programme has provided short-term financing for the construction of 500 buildings with local materials near Kigali and a few more buildings at Mutara. Any increase in the number of housing units to be built will depend on the funds available. For the time being, the resources mobilized are still inadequate. As at 1 April 1995, UNDP had received only US$ 40 million out of the US$ 110 million needed to start up the community development programme focusing primarily on the housing sector.

64. Furthermore, this amount is totally inadequate to cope with the immense requirements of reintegrating the nearly 600,000 former refugees whose repatriation had been envisaged. International aid, therefore, remains far from sufficient. Unfortunately, this is just as true for housing construction as, generally, for national reconstruction. In the aforementioned report of 4 June 1995 (S/1995/457), the Secretary-General criticizes the slow delivery of the assistance already pledged. Regarding the economic assistance pledged at the round table held by UNDP at Geneva on 18 and 19 January 1995, he states: "Although US$ 634 million was pledged on that occasion, only US$ 69 million has actually been disbursed, of which US$ 26 million has been utilized for debt repayment." The Secretary-General concludes: "It is important that these problems be addressed." This is all the more true since assistance by the international community remains indispensable to the national reconstruction programme, especially the construction of housing or refugee centres. Such assistance could encourage the refugees to return to their homes and help to reduce, if not put an end to, violations of personal security.

## B. Violations of the right to personal security

65. Violations of personal security have unfortunately multiplied over recent months, often in direct relation to violations of property rights, of which they are the immediate cause. The violations consist of arbitrary arrests and detentions leading to distressing conditions of detention.

1. Arbitrary arrests and detentions

66. The arrests and detentions effected by the Rwandan authorities are arbitrary in so far as they blatantly flout both Rwandan legislation and the pertinent international provisions. According to Rwandan criminal procedure, the arrest of a person presumed to have committed an offence must be carried out with an arrest warrant issued by the government procurator. The lawful period of detention is 48 hours. This may be extended, but not beyond five days. Beyond that period, if the prosecutor wishes to keep the arrested person in detention, he must bring him before the court of first instance, which will decide, in chambers, on pre-trial custody, which may extend to one month, or order release on bail or unconditional release if the case is dismissed. Almost all arrests and detentions carried out since the end of the hostilities have flouted the above-mentioned provisions, which in fact reflect the Basic Principles for the Treatment of Prisoners adopted by the United Nations.

67. The number of people arrested and subsequently detained has been growing for several months. As at 29 May 1995, there were 29,403 detainees in the prisons and detention centres accessible to human rights observers. The total prison population throughout the country was estimated at the end of May 1995 at more than 42,000, as stated in the latest report of the Secretary-General on Rwanda (S/1995/457 of 4 June 1995). In late February 1995, the estimate was 25,000. Thus, between the end of February and the end of May, the number of detainees rose from 25,000 to 42,000, or an additional 17,000 in three months - nearly 6,000 new detainees per month or 1,500 per week. Given the conditions in which these arrests and detentions are carried out, the Rwandan authorities themselves, in particular the former public prosecutor in the Kigali court of first instance, acknowledge that more than 20 to 30 per cent of detainees are innocent.

68. There are several interrelated reasons for the resurgence of massive arrests and detentions. The first reason, which is the one given by the authorities, is the closure of the displaced persons camps, which, according to them, had become a haven for numerous militiamen and others accused of genocide. If the latter had been outside the camps, they would have been recognized and reported by witnesses or successors of the victims of the massacres. The second reason is the slanderous accusations, motivated by hate, jealousy and covetousness for the goods of the people being persecuted. This is illustrated by the above-mentioned examples of occupation of property. The third reason is the practice of blank warrants. The Special Rapporteur was informed of the existence of this illegal practice, which consists of prosecutors signing blank warrants, which are handed to mayors who have limited police powers - and enable them to make arrests. This practice, whose existence has been explicitly confirmed by public authorities, can only contribute to the resurgence of massive and arbitrary arrests. The former public prosecutor of Kigali, who was quick to protest against these arbitrary arrests resulting from slanderous accusations, added, at a press conference in Brussels on 11 May 1995, a fourth reason relating to a statement by the International Tribunal prosecutor, Judge Goldstone. He said: "I must stress the fact that there has been a disturbing increase in these arrests following the announcement on national radio that the International Tribunal would not begin prosecutions before the end of 1995." These massive arrests are even more disturbing given that the conditions of detention leave something to be desired.

2. Distressing conditions of detention

69. The situation in the prisons is one of the major concerns of the international community. It remains indescribable and unspeakable; the former public prosecutor of Kigali calls it "tragic". With reason: it is characterized by overcrowding and inhuman treatment of prisoners.

(a) Overcrowding of the prisons

70. The prison population at 29 May 1995 consisted of 29,403 persons packed into 13 small official detention centres. These centres do not include the isolation cells and other places of detention inaccessible to the human rights observers. At 10 June 1995 the total prison population was estimated at approximately 46,000 detainees, including 1,100 minors.

71. The Rwandan prisons consist of these overcrowded centres, and the extent of overcrowding far exceeds the threshold of tolerability. This is the case in Butaré prison, which has accommodation for 1,500 detainees but on 10 June contained 6,589, four times more than capacity. It is also the case in Kigali prison, which on 3 June housed 9,401 detainees in a space intended for 2,000, or five times more than capacity. Similarly, Gitarama prison housed 6,847 detainees in a space for 800, almost eight times more than capacity.

72. In most prisons the detainees are housed in cramped conditions, most of them barely able to sit down, much less lie down on a floor which is often roughcast. The few beds are sold to the highest bidder or occupied by the strongest. It is extremely difficult for visitors to make their way through this mass of humanity exposed to the sun and the elements. It was impossible for the Special Rapporteur, during his visit on 31 March 1995, to move around within Gitarama prison. Immobilized and at the mercy of bad weather, the detainees eat, drink and defecate on the spot. This "tragic" situation spares neither old people, women, nor even children. Some of the children are under 11 years of age. In Kigali prison, there are 278 minors and 70 children accompanied by their mothers; the Special Rapporteur was particularly moved by the sight of a seven-year-old boy accused of taking part in the genocide.

73. These distressing conditions of detention cause a number of illnesses and deaths are no less common. In Gitarama prison, for example, 48 people died in April 1995. On the day of the Special Rapporteur's visit, two bodies were removed in his presence. He was subsequently informed that the daily average from June 1994 to March 1995 had been four deaths a day. Deaths are also caused by maltreatment.

(b) Inhuman and degrading treatment

74. Although the detention centres do not have a monopoly on cruel, inhuman and degrading treatment, they are the prime site for such practices. Many cases of torture that have left after-effects on the victims have been reported to United Nations human rights observers. This inhuman treatment takes several forms, ranging from beatings to kandoya and suffocation.

75. The practice of beating, which consists of striking the detainees, is common in a large number of detention centres, including the prison in Gisenyi

prefecture, where human rights observers reported receiving 40 complaints from victims in January and February 1995. In several of these cases, the victims were taken to hospital. Two died as a result of their injuries. At Save police headquarters, several detainees who had arrived in early March showed signs of ill-treatment - either open wounds on the back or legs, swollen joints or head wounds. Another detainee had scars all over his back and arms. Observers from Butaré, during a routine visit to the prison in the week of 20 to 25 March, heard noises, shouting, threats and slaps coming from the interrogation room of the criminal police officer.

76. Various other types of blows are struck by means of instruments other than clubs. These include machete blows flat across the shoulders, kicks, screw driver stabs to the back and head, which cause gashes; blows with rifle butts, causing holes in the feet; bludgeoning, leaving marks on the head and back; blows with a chain attached to a padlock, causing lacerations; and blows to the buttocks, leaving open wounds.

77. Kandoya is another torture technique which consists in tying the victim's arms just above the elbows behind his back. It leaves clear marks in the form of wounds which eventually lead to the paralysis of the upper limbs.

78. Suffocation is a form of torture which caused the incident at Muhima police station during the night of 16-17 March 1995. The facts merit a brief description. On the afternoon of 16 March, 75 arrested persons were taken from Gikora community centre to Muhima police station, where they arrived at about 5 p.m. The local police authorities said that it was too late to book them and that they would have to stay in an improvised place of detention until the formalities could be undertaken the next day. The gendarmes forced all 75 people into a room measuring barely 16 square metres, with only one door and no windows. In the middle of the night, the detainees knocked on the door, but no one was able to open it for them. The next morning, 22 of them had suffocated to death; 2 others who had been taken to hospital also succumbed, bringing the death toll to 24. The observers' request to investigate this incident was turned down by the Rwandan authorities, who assured them that they had initiated their own inquiry.

79. To this non-exhaustive list of ill-treatment should be added the rape of women and the malnutrition of detainees.

### 2. The solutions envisaged

80. The Rwandan Government and the international community have taken a number of short-term measures to end the overcrowding of the prisons and medium-term measures to try those accused of genocide. These measures can be divided into two major categories. The first has to do with sorting the case files and the second with the rehabilitation of the judicial system.

#### (a) Sorting the case files

81. The first solution advocated and implemented by the Rwandan Government consisted in setting up, on 17 October 1994, a commission to sort the case files of detainees on a prefecture-by-prefecture basis. This sorting operation had two purposes: (a) to separate ordinary criminal cases from

those relating to the genocide, and (b) to separate the cases of people against whom sufficient charges of participation in the genocide had been brought from those of other persons. The purpose of this preliminary screening was clearly to arrange for the release of people for whom detention was not necessary so as to reduce the overcrowding of prisons.

82. The case file sorting commission is composed of the public prosecutor of the court of first instance (president), a representative of the gendarmerie, a representative of the army and a representative of the information services. The Kigali commission began its work on 10 January 1995 and, at its first meeting, ordered 5 releases out of the 12 case files considered. In mid-February, 50 detainees would have been released on its orders had it not been for the opposition of the military. The commission subsequently had to stop its work owing to lack of cooperation on the part of the army.

83. It should be stressed that, no matter how praiseworthy, the commissions none the less have limitations which considerably restrict their scope. The first limitation lies in the fact that the small number of releases which the commissions are able to order cannot significantly reduce the number of prisoners or even offset the number of incoming prisoners, which is between 1,300 and 1,500 per week. The second limitation is the lack of guaranteed safety upon leaving prison. The fear of reprisals or private vengeance has led Rwandans, especially Hutus, to give themselves up as prisoners. These persons, as some of the detainees in Butaré prison have told the Special Rapporteur, are not prepared to risk their lives by leaving prison until such time as effective measures are taken to ensure their safety.

84. Following the closure of the displaced persons camps, the Government decided to arrest only those persons against whom sufficient charges of participation in the genocide had been brought. This step does not seem to have produced the expected results, given the continuously mounting number of detentions.

85. The limitations and failure of the classification commissions have prompted the United Nations agencies and humanitarian aid organizations to call for the rehabilitation of the judicial system.

(b) Rehabilitation of the judicial system

86. The rehabilitation of the judicial system is aimed at both the prisons and the courts.

(i) The prisons

87. Since early February 1995, various international organizations working on Rwandan territory have recommended that the Ministers of Defence and Justice should take urgent steps to rehabilitate the prisons. They have themselves proposed at least three solutions.

88. The humanitarian agencies first of all suggested the construction of tents for housing the detainees on sites surrounded by barbed wire. The Government rejected this proposal for reasons both of "security", given the enormous risks of escape, and of "image", as the proposal evoked uncomfortable

memories of the Nazi concentration camps. The humanitarian agencies then proposed that the detainees should be transferred provisionally to stadiums. This solution was also rejected, as it brought to mind the fact that the stadiums had served as venues for assembling and massacring Tutsis during the hostilities. The agencies' third proposal was for a prison rehabilitation plan which involved refurbishing the existing detention centres and building new ones.

89. This last solution was selected but not without resistance, as there were two main objections to the idea of building new detention centres. The first was raised primarily by the embassies of Western nations, which are major funders. Without questioning the principle of the arrests and detentions necessitated by the duty to punish those accused of the genocide and other crimes against humanity, they pointed out that increasing prison accommodation might, in this case, encourage the Rwandan authorities to persist in their "arbitrary" activities and not bother trying to relieve the prison overcrowding by releasing the victims of slanderous accusations. In other words, what was being decried and denounced was not the arrests and detentions in themselves, but the way in which they are carried out. The second objection was that building prisons would at best create only a few hundred additional spaces, which would quickly prove inadequate for the growing needs created by the 1,500 weekly arrests and detentions. Nevertheless, given the inhuman conditions of detention and the daily number of deaths resulting therefrom, everyone, or almost everyone, agreed to consider these two latter solutions as the lesser of the evils. Accordingly, a number of sites have been selected for the construction of new detention centres. One such site is at Nsida (Kibungo prefecture), where there are plans to build a prison with a capacity of 5,000. Financing will come from a voluntary fund managed by UNDP.

90. Building new prisons is, however, no panacea for the grave problem of the overcrowding of prisons. The lasting solution to this problem lies in national reconstruction, which will require greater aid from the international community. In the immediate future, this aid should be earmarked for the rehabilitation of the courts.

(ii) The courts

91. The Minister of Justice of Rwanda, at a symposium held at Lille on 20 May 1995, described the situation of the courts in the following terms: "In Rwanda more than 1 million people have died ... Judges have not been spared. Most of them went with the former leaders, others were massacred during the genocide, while those few who managed to escape are attempting to organize a semblance of justice, a crippled justice in search of itself." In fact, the Rwandan judicial machinery is still defective, if not almost non-existent. It is characterized by a shortage of both human resources and material facilities.

92. Prior to the massacres of April-July 1994, there were 708 judges. A very small number of jurists was recorded, only 45. Today, Rwanda does not have more than about 210 judges, including only 60 trained jurists. These judges can be classified as follows: prosecutors' offices and courts of first

instance, 55; court of appeal, 2; and court of cassation, 3. The 150 other magistrates are with the cantonal courts. Thus, the fact that most of the jurisdictions are not functioning is largely due to the inadequate numbers of judicial personnel. The 55 judges in courts of first instance who deal with criminal matters will have to consider the 46,000 cases currently pending. Since it is not possible to cite all the cases, the example of Kigali will suffice: its prosecutor and his 4 assistants will together have to deal with more than 9,300 cases.

93. To this shortage of human resources must be added the destruction of the infrastructure of the courts themselves, which has entailed a dire shortage of material and logistical facilities. Owing to the lack of financial resources, it has not been possible to replace all of the furniture and buildings which were destroyed. However, it is the lack of basic technical resources for investigation, particularly liaison vehicles, office materials and even paper and ball-point pens, which should be stressed. In these circumstances the judges do not have appropriate working conditions; instead, the entire processing of the cases of those accused of the genocide is slowed down.

94. In order to rectify this situation, the Minister of Justice has sent to the United Nations authorities, including the Centre for Human Rights, a request for aid, particularly in the form of foreign judicial personnel, estimated at 678, including 303 judges, 300 prosecutors and 75 police officers (police investigators).

95. In response to this request from the Rwandan Government, a technical assistance programme for the Rwandan judicial system has been adopted and is now being implemented. The first phase has two parts: rehabilitation of court buildings and rehabilitation of the prisons, including the construction of new detention centres. The second phase comprises three activities: the priority initial recruitment of 50 foreign judges, the training of national judicial personnel and the establishment, within the Ministry of Justice, of a coordination structure for foreign technical assistance and project management. This project will be managed by the Ministry of Justice, with the Office of the High Commissioner for Human Rights in charge of recruitment and financing provided by UNDP. The Centre for Human Rights has already selected 16 international jurists, whose personal history files have been sent for approval to the Minister of Justice. Their task will be to assist prosecutors in examining the case files.

96. The Human Rights Field Operation in Rwanda has been given the task of assisting the Ministry of Justice in carrying out the project for the rehabilitation of the judicial system. The objectives of this project are as follows: guidance and management of foreign judicial personnel; training of national personnel; deployment of foreign judges in the various prefectures and communes; purchase, distribution and maintenance of vehicles; and medical evacuation of foreign personnel. However, there is at the moment a legal obstacle preventing execution of the programme. For obvious reasons of national security, Rwandan law does not authorize foreign judges to exercise a jurisdictional function on Rwandan territory. It is in order to remove that obstacle, among other reasons, that the Government has submitted to Parliament a bill whose early adoption would undoubtedly help to revive the Rwandan judicial system. This is demonstrated to some extent by the failure of the

initiative of the Minister of Justice to start, if only symbolically, the trial of those accused of the genocide of 6 April 1995. The adoption of the bill by the Rwandan Parliament would certainly enable a start, and progress to be made, in the cases pending, not just those relating to the genocide, but also those involving offences currently being committed on Rwandan territory, including violations of the right to life.

## C. Violations of the right to life

97. Violations of the right to life, which had decreased somewhat and given way to arbitrary arrests and detentions, are now unfortunately on the increase again, taking the form of summary executions, massacres, and abductions and enforced disappearances.

### 1. Summary executions

98. The human rights observers have received numerous testimonies of summary executions perpetrated by civilians and above all, by soldiers of the Rwandan Patriotic Army (APR) as acts of reprisal. Some examples may be cited merely by way of illustration. On 12 February 1995, two cyclists, Nteziyaremye and Buseruka, accidentally collided with an APR soldier in the Gakarara sector (Ruhengeri prefecture, Karago commune) and were immediately taken to the military camp at Mukamira. On 15 February, their families were informed that they had been shot by members of the APR while attempting to escape. The bodies, when recovered by the families, revealed marks and wounds which were far from consistent with the official account. On 30 April, three inhabitants of the Gasasa sector (Nyakizu commune, Butaré prefecture) discovered eight dead bodies in a small wood. They were identified as displaced persons who had recently returned from Kamana camp in Gikongoro prefecture. Witnesses said that, on the evening of 29 April - in other words, the previous evening, they had seen the eight victims alive being taken towards the wood by a group of persons, among whom were two soldiers in uniform. The victims died from blows to the head with sticks and stones. Their names were transmitted to the observers. Three persons suspected of having taken part in these executions were arrested. On 4 April, in Gitarama prefecture, a 16-year-old girl informed observers that her father had been killed the previous day in Ntenyo (Tambwe sector) by a group led by two brothers, whose first names were Vital and Aphrodis, and another four persons. This group was allegedly composed of Tutsis who had survived the war.

99. In Cyangungu prefecture, there were also several reports of summary executions. Three persons were killed by members of the APR in Nyamasheke on 24 March. The victims were identified by UNAMIR military observers. On 25 March, a further two persons were killed in Kirambo for resisting arrest. In the same town on the following day, i.e. 26 March, APR soldiers killed two women school teachers and a baby.

100. To this already lengthy list should be added the case of the murder, on 4 March 1995, of the former prefect of Butaré, Mr. Pierre-Claver Rwangabo, in circumstances which have still not been clarified. In addition to these individual killings there have been the massacres of displaced persons in Kibeho.

2. The Kibeho massacres

101. The tragedy of Kibeho constitutes the major event of the period covered by this report and therefore merits some attention. Following the failure of "Opération retour" (Operation Return), the Government of Rwanda decided, on 15 April 1995, to close the displaced persons camps which, owing to the infiltration of militiamen and soldiers from Rwanda's former armed forces, were becoming a "threat to the security of the region". The largest camp, Kibeho, still contained 120,000 persons out of a total of some 250,000 displaced persons. The Rwandan authorities gave orders to close it by force. APR soldiers took up positions round the camp as from 18 April. That day, two APR brigades, or more than 2,000 soldiers, surrounded the camps at Kibeho and Ndago in order, in their words, to carry out a search for criminals and weapons. The displaced persons panicked, and leaving their huts and abandoning all their possessions, they took refuge around the buildings controlled by UNAMIR. Following the jostling caused by the soldiers surrounding the camps and by shots fired into the air, 11 people, mostly children, were trampled to death by the panic-stricken crowd. Similar incidents, causing scores of deaths and many injured, occurred on 19, 20 and 21 April. Some 9,000 displaced persons were registered and evacuated during those three days. However, the operation was hampered by heavy rain, while groups of young civilians, armed with sticks and stones, attacked the displaced persons as they walked along the roads in large groups.

102. It seems that it was in the night of 22 April that the worst occurred; many shots were heard and, next morning, the road between the two UNAMIR posts was strewn with countless bodies. It should be made clear that some were killed by APR fire, others were trampled or crushed by the crowd in the general panic, and still others were executed by militiamen in reprisal against displaced persons who had expressed their intention of leaving the camp.

103. The number of victims of the Kibeho massacres is still undetermined. The Government of Rwanda recorded only 300 deaths, while other sources put the number at 8,000. UNAMIR, for its part, suggests a figure of between 1,500 and 2,000. The exact figure will never be known. What is important and thus to be condemned is not so much the number of deaths as the act perpetrated and the manner of its perpetration. Its unanimous condemnation by the international community is therefore readily understandable.

104. Following these massacres and their subsequent condemnations, the Government of Rwanda proposed that an international commission should be set up to inquire into the events at Kibeho. The commission, officially constituted in Kigali on 3 May, began work on 8 May and submitted its report on 18 May.

105. In its report, the commission drew a number of conclusions, of which we shall mention three. The first is that the Kibeho massacres were neither the result of a planned action to kill a specific group of people nor the result of an incident which could have been prevented. Secondly, there is sufficient evidence to establish the fact that serious human rights violations were perpetrated against unarmed displaced persons, causing their death or serious wounding. Thirdly these violations are attributable both to APR military

personnel and to armed individuals among the displaced persons themselves. The Government of Rwanda, in a statement on 26 May, took note of the conclusions and recommendations of the commission and reiterated its commitment to put them into practice.

### 3. Abductions and enforced disappearances

106. The human rights observers have also received a great many reports of persons abducted and missing whose families have neither news nor any trace of them. The abductions and enforced disappearances would seem to be mainly the work of members of the APR. A few cases will be mentioned as examples.

107. On 4 August 1994, between 10 and 11 p.m., Mr. Ladislas Benhimana (aged 47), an inspector of finances, was arrested along with his two children, Jean-Claude and Rosine, by three APR soldiers, apparently without a warrant. According to the information received, the representations made by his wife produced no results. On 25 August, at 6 a.m., Mr. Leodomir Baguliyoro (aged 47), a Ministry of Finance official, was abducted from his home in Kigali by two soldiers who bundled him into a vehicle. There again, the official steps taken by his wife to find him were unsuccessful. The same occurred with Mr. Ndagimana (aged 31), a driver and mechanic, who was abducted in the evening of 25 July 1994 while he was returning home from King Faisal Hospital. His car was found in front of Gikoro police station. A witness said he had seen him three days after his arrest, in handcuffs, in the compound of the national gendarmerie headquarters in Kimihurura. The investigations carried out by his family to find him yielded no results. This was also the case with Mr. Marcel Ntirenganya, who left his home on 20 October 1994 to take a soldier friend of the family back to his post. His car was found in front of Muhima police station, but he himself was never found.

108. During his most recent visit to Rwanda, the Special Rapporteur met a delegation of Rwandan women whose husbands and, in some cases, children had been missing since July 1994. They presented him with a file containing several items. The first was made up of five reports on cases of enforced disappearances. The second was a non-exhaustive list of 49 persons reported missing, abducted by APR soldiers. The list was sent to the Minister of Justice from the "Persons reported missing since July 1994 - wives' group" on 25 May 1995. To date, however, all the steps taken by these women vis-à-vis the competent authorities to find their husbands have been fruitless. The third contained a list of 149 men reported missing, addressed by the women's group in the Masoro sector (Rutongo commune, Kigali prefecture) to the chief of the human rights operation in Kigali. Their husbands have been reported missing since May 1994 in Byumba, when the Rwandan Patriotic Front (RPF) took them away to the zone it controlled for "their protection". They have been without news since then.

109. All these abductions and enforced disappearances, and particularly the events in Kibeho, can only create further obstacles to the return from the exodus.

## III. THE PROBLEM OF THE RETURN FROM THE EXODUS

110. As to the problem of the return from the exodus, another major concern of the international community, there has been no obvious progress towards a solution. On the contrary, the situation of those concerned has deteriorated. However, this judgement is tempered by the fact that the problem of the return takes on different dimensions according to whether it involves displaced persons or refugees. The former have been subjected to enforced repatriation, while the latter remain blocked in the camps.

### A. The forcible repatriation of displaced persons

111. It was to resolve the situation of displaced persons that "Operation Return" was launched; regrettably, it has ended in failure.

#### 1. "Operation Return"

112. The problem of the return of the displaced persons, has fomented discord between the United Nations and the Government of Rwanda. The United Nations recommended the voluntary repatriation of displaced persons and the agreed closure of the camps, while the Government opted for their forcible closure. In support of its position, the Government invoked various arguments, including the violation of State sovereignty, the infiltration of the camps by militiamen who took refugees as hostages, and the frequent raids by militiamen on national territory. While regarding the Government's position as legitimate, the United Nations asked it to adopt the solution of the voluntary and peaceful return of the displaced population.

113. The agreement obtained from the Government to implement the strategy proposed by the United Nations made it possible to launch "Operation Return". The purpose of this operation, initiated by the United Nations Rwanda Emergency Office (UNREO), was to repatriate displaced persons from the camps to their habitual place of residence. The operation was accompanied by a food rehabilitation programme (including seed distribution) managed by ICRC. The operation began on 28 December 1994 and enabled nearly 150,000 displaced persons to be "repatriated". This solution did not prevail, however, and was implemented only from December 1994 to March 1995.

#### 2. The failure of the operation

114. According to UNREO, some 170 families had arrived in Kibeho camp in March 1995, bringing the number of displaced persons in the camp to over 130,000. Some displaced persons left for Burundi by the Ntongwe road; others left for camps situated in the south of Gikongoro. The chief of Munini camp estimated in March 1995 that at least five families of displaced persons were leaving the camp every day to go not to Rwanda but to Burundi. According to UNAMIR the number of displaced who travelled from south-west Rwanda to Burundi between 13 and 19 March 1995 was approximately 510.

115. These observed movements arose from the fact that the repatriated persons were apprehensive and afraid of being arrested or killed. Some told officials of humanitarian agencies that they were ready to return home and be arrested

if they were accused of having taken part in the genocide, but not because they wanted to claim their property. The number of repatriations had thus considerably decreased by April 1995.

116. It was in this context that the Government decided to close the camps by force, particularly Kibeho camp; the result of this was the massacres described above. Following the brutal and forcible closure of the camps, large numbers of displaced persons were transported back to the communes from which they had come. Many others returned on foot, in difficult circumstances. Many of them were surrounded, harassed, stripped of their goods and beaten by gangs of civilians armed with sticks and stones. Thus, for example, on 21 April, five kilometres from Runyinya, over a 100 displaced persons could be seen running in terror, covered with wounds. Two youths beat to death a woman carrying a baby on her back.

117. By 25 April, with the exception of Kibeho where fewer than 2,000 persons still remained, all the camps had been evacuated and were deserted. The final movements of displaced persons took place in the south of Butaré prefecture, from Kamana towards the communes of Nyakizu, Gishamvu, Kigembe and Runyinya. On 25 April there were still a few hundred displaced persons who refused to leave the camps. On 26 April, the total number of displaced persons registered was 60,177.

118. From 19 to 28 April, when the camps were totally evacuated, the number of repatriated displaced persons was estimated to be 61,855. It should be pointed out, however, that many displaced persons did not register out of fear of the communal authority. During his visit to the Kibeho site, the Special Rapporteur observed that the camps were empty and under the supervision of APR soldiers, while the UNAMIR posts had been completely evacuated.

119. The enforced return of the displaced persons and, above all, the Kibeho massacres can only create further obstacles to the return of the refugees.

## B. The Blocking of refugees

120. Despite the efforts of the United Nations and the humanitarian non-governmental organizations to improve the situation in the camps, and in spite of some progress which has been made, the refugees continue to exist in a state of permanent insecurity. They are the victims of a dilemma which, in fact, gives them no choice; on the one hand, they find their difficult life in the camps hard to bear and on the other, they cannot go home because of the lack of security in Rwanda and because they are held hostage in the camps. The various solutions envisaged to release them from this situation have not led to satisfactory results.

### 1. The solutions envisaged

121. The Secretary-General of the United Nations has envisaged several solutions not only to put an end to the insecurity, but also to encourage the refugees to return voluntarily and peacefully. Among these measures, mention may be made of the plan to set up a peace-keeping operation; this has failed and been replaced by the deployment of local troops.

(a) The failure of the planned peace-keeping operation

122. In his report of 25 January 1995 to the Security Council (S/1995/65), the Secretary-General proposed the setting-up of a peace-keeping operation composed of 5,000 men, to ensure that political and other refugees are kept separate.

123. This plan, which was based on an integrated approach to the various problems, was aimed at several objectives simultaneously. Its purpose was to put an end to the acts of banditry and the harassment of humanitarian personnel, to protect the storage and distribution of humanitarian aid, and to enable refugees who had applied to return to go back to Rwanda without being subjected to intimidation by the former rulers. However, the peace-keeping operation does not seem to have received the support of the States Members of the United Nations. Despite appeals by the Secretary-General, the States have almost unanimously refused to supply national contingents for the operation. In this connection, the Secretary-General reports that of the 60 States approached only one agreed to make a unit available for the operation. He therefore decided to turn towards alternative solutions - the setting-up of a group of police/military observers and contracting arrangements with private security agencies.

124. These proposals, too, have had to be dropped because they are too costly. The solution which finally prevailed was recourse to local security forces.

(b) The deployment of local troops

125. The Office of the United Nations High Commissioner for Refugees (UNHCR), in the context of the national solution, signed an agreement on 27 January 1995 with the Government of Zaire, under which this Government undertook to deploy 1,500 soldiers in order to ensure security in the refugee camps. To date, all the 1,500 Zairian soldiers have been deployed, mainly in Goma and Bukavu. According to UNHCR, a further contingent of 400 soldiers may be deployed in the camps located in Uvira.

126. The Zairian soldiers have the support of the international advisers who make up the Civil Liaison Group for security matters. This Group, currently composed of 45 officers, comprises 13 Netherlanders, 2 Swiss, 10 Beninese, 10 Guineans and 10 Cameroonians. Their number should be increased to 50.

2. Unsatisfactory results

127. It is true that the deployment of local troops in the refugee camps has restored a degree of calm, following the improvement in the food and sanitary situation. In his report of 14 April 1995 to the Security Council (S/1995/304), the Secretary-General noted that the presence of local troops in the camps in Zaire had so far yielded positive results.

128. However, the overall picture is still clearly unsatisfactory, as the main objectives are far from having been attained. In fact, the situation remains virtually the same as in previous months, and is characterized both by the renewed flow of refugees and insecurity in the camps. The total number of Rwandan refugees is approximately 2 million.

(a) The return of refugees to the camps

129. According to UNHCR, on 28 June 1995 there were 1,100,400 Rwandan refugees in Zaire, 608,700 in the United Republic of Tanzania, 200,000 in Burundi and 4,000 in Uganda.

130. Since the Kibeho massacres, there has been a threefold phenomenon: the spontaneous and orderly return to Rwanda of a large number of former Tutsi refugees from Burundi and Zaire; the end of the voluntary repatriation, organized by UNHCR, of new Hutu refugees; the renewed flow of displaced persons into the refugee camps in Zaire and of Rwandan refugees from Burundi to Tanzania.

131. The latter phenomenon should be described in greater detail. In early May 1995, 27,000 displaced persons who had survived the Kibeho massacres found refuge in north-east Burundi. Some 16,000 of them, who were not accepted by the Burundi authorities, managed to reach Zaire across the Ruzizi plain and took refuge at Uvira. In addition, between 19 and 25 May, 1,166 Rwandans who had taken refuge in Burundi arrived at the Kitali camp in Tanzania. Only 248 refugees arrived between 26 May and 1 June, after the Tanzanian authorities decided to close Tanzania's borders with Burundi.

(b) Insecurity in the camps

132. The insecurity prevailing in the camps seems to have spread well beyond their boundaries, threatening the stability of Rwanda and the security of the local populations.

133. Rwanda's stability is jeopardized by increasingly numerous forays into Rwanda by militiamen and by members of the former Rwandan government forces. The situation in Rwanda is even more disturbing in view of the reports of the training and arms deliveries received by these groups. Amnesty International and Human Rights Watch, two distinguished humanitarian organizations, identify the countries providing military assistance by name. In its report published in May 1995, Human Rights Watch reveals that arms are being supplied from South Africa, China and France to the camps in Zaire. In the report referred to above on the United Nations Assistance Mission for Rwanda (S/1995/457 of 4 June 1995), the Secretary-General criticized the situation, which he described as one of the "causes of Rwanda's current tensions and frustrations"; echoing the Kigali Government, he said that the latter was "concerned that no effective limitations are seen to be placed on military training of, and delivery of arms supplies to, elements of the former Rwandan government forces, while the arms embargo continues to apply to Rwanda".

134. The problems of the renewed flow of refugees, the insecurity in the camps and the rejection of refugees by local authorities all require urgent measures.

135. Relations between Rwandan refugees and the local populations are little better. They remain tense on account of the constant attacks on the population by armed refugees. Consequently, in the host countries - Burundi, Tanzania and Zaire - Rwandan refugees are increasingly deemed undesirable by the local population, not only because of the insecurity they generate, but

also because of the environmental deterioration they cause. This accounts for the Tanzanian authorities' decision to close their country's borders to Rwandan refugees, particularly those from Burundi. This is also the case with the Zairian authorities, who have adopted a firmer stance vis-à-vis Rwandan refugees. Already in May 1995, the Supreme Council of the Republic (the transitional parliament) of Zaire adopted a resolution calling on the Government to send the refugees back to Rwanda. In a communiqué published on 24 June, the Government of Zaire issued a statement confirming the resolution.

## IV. RECOMMENDATIONS

136. The recommendations made by the Special Rapporteur duly take account of the urgent short-term and medium-term problems. Essentially these are: the repression of genocide, the cessation of human rights violations, the fate of the victims of human rights violations, the fate of refugees and displaced persons, and reconstruction and social harmony.

### A. The repression of genocide

137. As recommended in the third report of the Special Rapporteur (E/CN.4/1995/70 of 11 November 1994), the United Nations should ensure as quickly as possible:

The commencement of the proceedings of the International Tribunal for Rwanda;

Increased technical and financial assistance to rehabilitate the Rwandan justice system, in particular by providing personnel, rebuilding court-houses and constructing new prisons in order to alleviate overcrowding in existing prisons.

138. The United Nations should:

Induce Rwanda to adopt legislative and regulatory measures to facilitate the performance of judicial functions by foreign magistrates in order to rapidly and fairly prosecute and try the alleged perpetrators of genocide;

Demand that Member States give full effect to Security Council resolution 978 (1995) of 27 February 1995 concerning the arrest and detention of the alleged perpetrators of the crimes committed in Rwanda present on their territory, and that they cooperate in good faith with the International tribunal;

Help to ensure the defence of the alleged perpetrators of the genocide with a view to securing equitable justice.

### B. The cessation of human rights violations

139. The United Nations should demand that the Rwandan authorities ensure the observance of the following:

The prerogatives and decisions of the judicial authorities, which is an essential condition for the sound administration of justice;

In particular, the forms and procedures laid down by national legislation, and the international standards regulating the arrest and detention of suspected criminals.

140. The United Nations should recommend the following to the Government of Rwanda:

The organization of wide-ranging campaigns to make the population aware of the need to respect the physical integrity and property of others, and to prepare for a life in common and on good terms;

The adoption, as advocated in the third report of the Special Rapporteur, of forceful administrative measures designed to deter acts of reprisal and at the same time to ensure respect for the fundamental rights of anyone who may commit such acts.

C. The fate of victims of human rights violations

141. The United Nations should take appropriate measures:

To identify the victims of the genocide and of other serious human rights violations, assess their needs, and promote and/or organize care for them;

To provide or strengthen protection for vulnerable groups, particularly unaccompanied children, widows and disabled persons. It is imperative to establish a legal framework.

142. The United Nations should:

Induce the Government of Rwanda to grant applications by individuals whose property is unlawfully occupied and punish the occupiers;

Assist the Government of Rwanda to build housing for the returnees, in particular the former refugees, precisely in order to avert the unlawful occupation of property.

D. The fate of refugees and displaced persons

143. As indicated above, the United Nations should recommend that the Governments of countries hosting Rwandan refugees, and particularly the Government of Zaire, which has accepted the greatest number, take appropriate action to ensure that:

(a) The voluntary repatriation of refugees is effectively assured and facilitated;

(b) The refugees are not unduly influenced in one way or another, i.e. either to leave or to remain in the receiving country;

(c) Systematic information campaigns are organized for this purpose so that the people concerned can take a fully informed decision.

144. The United Nations should demand that the Governments in question ensure:

(a) That their territories are not used as a base for destabilizing Rwanda or committing acts of aggression against that State;

(b) That they abide by their international commitments, particularly those deriving from the relevant provisions of international conventions on asylum and refugees.

145. The United Nations should take appropriate measures:

To verify, in particular by means of an international commission of inquiry, information concerning the rearming and training of the former Rwandan government forces;

To strengthen security measures in the refugee camps in order to prevent attacks by refugees against the local populations and forays into Rwandan territory;

To ensure, by agreement with the various States concerned, the repatriation of refugees under proper conditions of security and dignity.

### E. Reconstruction and social harmony

146. The United Nations should make a formal and urgent appeal to Member States, particularly the major Powers and African States, to provide substantial assistance for the reconstruction of Rwanda as a matter of urgency.

147. The United Nations should increase the number of human rights observers in Rwanda from 147 (the figure initially planned) to 300.

148. By means of an integrated approach to the problems of the Great Lakes Region, the United Nations should:

(a) Adopt a comprehensive strategy designed to prevent the disintegration of the subregion;

(b) Convene, by agreement with the Organization of African Unity and the permanent members of the Security Council, an international conference to resolve the problems of the subregion, in view of their related, interdependent and transboundary nature, with a view to establishing a permanent peace.

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# STRENGTHENING OF THE COORDINATION OF HUMANITARIAN AND DISASTER-RELIEF ASSISTANCE OF THE UNITED NATIONS, INCLUDING SPECIAL ECONOMIC ASSISTANCE

## Letter dated 2 November 1995 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith information prepared by the Federal Ministry for Labour, Health and Social Policy on the consequences of the sanctions in the humanitarian field (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly under agenda item 20.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires, a.i.

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Annex

## I. THE CONSEQUENCES OF THE SANCTIONS IN THE HUMANITARIAN FIELD

1. The protracted humanitarian crisis, the dismantlement of the economic system of the former Yugoslavia and the consequences of the war being waged in some of its parts, including the massive influx of refugees, have strained the social welfare system in the Federal Republic of Yugoslavia to the extreme. Negative trends in this sphere gained particular momentum with the imposition of the international blockade, i.e., the United Nations Security Council sanctions on Yugoslavia in mid-1992. After the adoption and implementation of resolution 820 (1993) of 17 April 1993, the situation in some segments of the system became particularly disastrous and its harsh consequences will be felt for a long time to come.

## II. REFUGEES AND EXPELLED PERSONS IN THE TERRITORY OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

2. According to the estimates of the competent Yugoslav bodies, about 750,000 persons had found refuge in the Federal Republic of Yugoslavia by mid-October 1995. The total number of persons (refugees and expelled persons) officially registered by the Commission for Refugees of Serbia and Commission for Refugees of the Republic of Montenegro is 673,658. The estimated figure also includes those who for personal reasons did not wish to register with the competent authorities.

3. The number of refugees officially registered before mid-1995, from Bosnia and Herzegovina, Slovenia, Croatia and Macedonia, was 470,188, accounting for 4.5 per cent of the total population of the Federal Republic of Yugoslavia; now the situation has considerably changed and their percentage has risen to 6.4 per cent.

4. It should be stressed that most of the people in the first wave of refugees (95 per cent) were taken in by households, relatives, friends and people of good will, with only 5 per cent having been accommodated in collective centres. The second wave now includes more than 200,000 people and as the exodus continues and the wave keeps swelling, it is estimated that their number will reach about 250,000. These people will no longer be able to find shelter with households, except those who have relatives in the Federal Republic of Yugoslavia, their number being estimated at only some 20 per cent while for the others collective, longer-term and indeed permanent accommodation will have to be secured.

5. In view of the coming winter, immediate accommodation needs to be provided for an estimated 20,000 families of persons expelled from the Republic of Serb Krajina and the Republic of Srpska by the aggression of Croatia and the Croat-Muslim federation, but taking also account of the fact that quite a large number of earlier refugees will have to seek new shelter on account of the general and specifically total financial exhaustion of their host families. To provide the minimum living space required, about 30 square metres per four-member family, even with all the building facilities, which the State authorities can ensure at

the lowest construction prices, the amount required is about $600 million. This sum, which, however, does not cover the required furnishings and basic living necessities, represents an insurmountable burden given the situation in which the State and economy of the Federal Republic of Yugoslavia find themselves.

6. Special attention must also be drawn to the fact that the total number of registered refugees and expelled persons being cared for by the Federal Republic of Yugoslavia includes about 260,000 children under 18 years of age. The rest are mainly women, old people, sick and wounded people (a large number of whom were wounded when columns of people fleeing the Republic of Serb Krajina before the Croatian army were bombarded by that army) and other most vulnerable categories of the population.

## III. HEALTH CARE

7. The adverse trends in evidence since 1991 have been reflected most in the provision of health care to the population of the Federal Republic of Yugoslavia. In the field of health, the sanctions affect equipment, spare parts, medical supplies and inputs for the manufacture of medicaments and involve a lengthy procedure for obtaining authorization to import medicaments, so that the health care services of the Federal Republic of Yugoslavia are operating with a severe shortage of drugs, medical supplies, apparatuses and diagnostic means.

8. The consequences of the impossibility to extend adequate health care are felt the most in catering to the health needs of the most vulnerable population categories (pregnant women, infants, children, the elderly) as demonstrated by infant mortality rates, general mortality rates, mortality from specific diseases, the growing incidence of preventable infectious diseases and their epidemics, as well as by other negative indicators in health care.

9. The Federal Republic of Yugoslavia's vital statistics show that in the period 1991-1994, the above parameters changed significantly:

(a) The general population mortality rate rose from 9.8 per cent in 1991 to 10.1 per cent in 1994;

(b) The rate of live births went down from 14.6 in 1991 to 13.2 per cent in 1994.

10. As a result of the reduced number of live births and the increased number of deaths the population growth rate decreased from 4.9 per cent in 1991 to 3.1 per cent in 1994.

11. The highest mortality rate increases in the total population in the period under sanctions were registered for the following diseases:

(a) Senility without symptoms of psychosis, by 568 per cent;

(b) Hypertensive cardiac disease by 334 per cent;

(c) Chronic forms of ischaemic cardiac disease, by 212 per cent;

(d) Diabetes by 52 per cent;

(e) Chronic bronchitis by 35 per cent;

(f) Intercerebral haemorrhage by 34 per cent;

(g) The number of suicides rose by 20 per cent.

12. One can establish with certainty that the sanctions have hit the health sector hard even though they basically do not refer to the health field. None of the Security Council resolutions imposes sanctions on this area, nor have the Federal Republic of Yugoslavia's resources for humanitarian purposes, specifically health needs, been frozen. Nevertheless, despite repeated submission of the Federal Government and other competent bodies, and in fact the World Health Organization (WHO) itself, the Sanctions Committee remained unresponsive to all requests, and in instances when it was compelled to respond, the authorizations procedure was much too long. Dr. Hiroshi Nakajima, WHO Director-General, wrote to the Security Council in connection with inputs of the water supply system in the Republic of Montenegro, undertaking personally to oversee the utilization of these humanitarian imports, but failed to obtain a positive response. His request for sanctions to be lifted in the field of health also went unheeded.

13. This section offers only some basic and latest indicators of the effects of sanctions on the health sector in the Federal Republic of Yugoslavia, but there are many more and they have all been repeatedly submitted to the United Nations.

## IV. SOCIAL ISSUES

14. The effects of international sanctions have considerably aggravated the living conditions of not only the poor but also of a wider population. They led to a new format of poverty threatening even the social groups which have so far been spared the burden of societal stratification and impoverishment. The multiple aspects of these changes have particularly drastically reflected on the family.

15. As a result of the sanctions, it has become increasingly difficult to satisfy minimum existential needs, especially in the case of the unemployed, the employed with low income and family income below a social minimum, pensioners with low pensions and family incomes, families with children, elderly rural households, etc.

16. The number of the employed in the social sector decreased by around 620,000 (1989-1995) or 23 per cent; the number of the registered unemployed increased by around 160,000 or 26 per cent. A large number of the apparently employed - between 300,000 and 900,000 people - have been on compulsory paid leaves receiving minimum wages. The number of pensioners increased by around 400,000 or 40 per cent in this period; the ratio between the number of the employed in social sector and the number of pensioners was 2.8:1; in 1989 it was 1.5:1.

17. The drastic reduction of real public income sources, gravely affecting all benefits (salaries, pensions, disability benefits, social benefits, children's allowances, subsidies to social and children's care institutions, etc.), resulted in a steady increase of the number of citizens in a state of social need.

18. We should like to stress that the 1993 United Nations Inter-agency Mission itself establishment that the living standard of about 85 per cent of the Federal Republic of Yugoslavia population had dropped to an existential minimum, and that over 50 per cent of the population required social assistance. Despite the introduced economic reform, since 1993, when the report was submitted the situation has become even worse for certain population categories.

19. The sanctions have also seriously undermined the children's health-care system, particularly adversely affecting children from poor families, children deprived of parental care and disabled children. Assistance rendered in the form of material benefits has lost value in real terms. Preschool institutions, homes for children deprived of parental care, disabled children and youth institutions for juvenile delinquents, are also in an increasingly difficult material situation, manifested by a poor quality of food and a considerable decline of standards, including poor hygienic standards, insufficient heating, inadequate maintenance, the impossibility to keep facilities and equipment in proper repair. In addition, the energetic value of nutrition of the population as a whole dropped by around 30 per cent resulting in particular in malnutrition in children.

20. The sanctions have drastically aggravated the position of women in all spheres of life. Today, Yugoslav women are forced to renounce many rights, which until recently accorded them a status that met the equality standards of civilized society. This is today primarily reflected in their unemployment rate, amounting to 17 per cent as against 12 per cent for men. In 1989 the rate for women was only 0.5 per cent higher. Women are more frequently dismissed from work. It should be especially pointed out that today women increasingly revert to housekeeping chores forced by low wages and inadequate services extended by nurseries, public utility services, kindergartens, school cafeterias, etc.

## V. EFFECTS OF SANCTIONS ON THE IMPLEMENTATION OF INTERNATIONAL SOCIAL SECURITY AGREEMENTS

21. The sanctions have even affected around 60,000 beneficiaries of foreign pensions now living in the Federal Republic of Yugoslavia and receiving annually around 250.2 million deutsche mark; around 135,000 beneficiaries of foreign insurance exercising their health-care rights in the Federal Republic of Yugoslavia, for whom around DM 53 million is outstanding; and 40,000 children failing to receive family allowances from competent authorities abroad (unpaid claims amounting to DM 75 million).

22. Unfortunately, to date most countries have not started remitting pensions and paying other benefits in the Federal Republic of Yugoslavia in spite of repeated interventions of the Federal Government with the United Nations, and

the fact that this field is definitely not included in the sanctions regime, and that these population categories are protected by a number of international legal instruments, such as the Charter of the United Nations, the Universal Declaration of Human Rights, the Declaration on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights, various conventions of the International Labour Organization, and especially international bilateral social security agreements (in the case of the Federal Republic of Yugoslavia concluded with 17 countries).

23. The countries that pay the above-mentioned benefits outside the Federal Republic of Yugoslavia have brought their beneficiaries into a very difficult position and exposed them to great costs and additional hardships in view of the fact that they are basically elderly and sick persons and children.

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